



The Parliament of the Republic
of Moldova

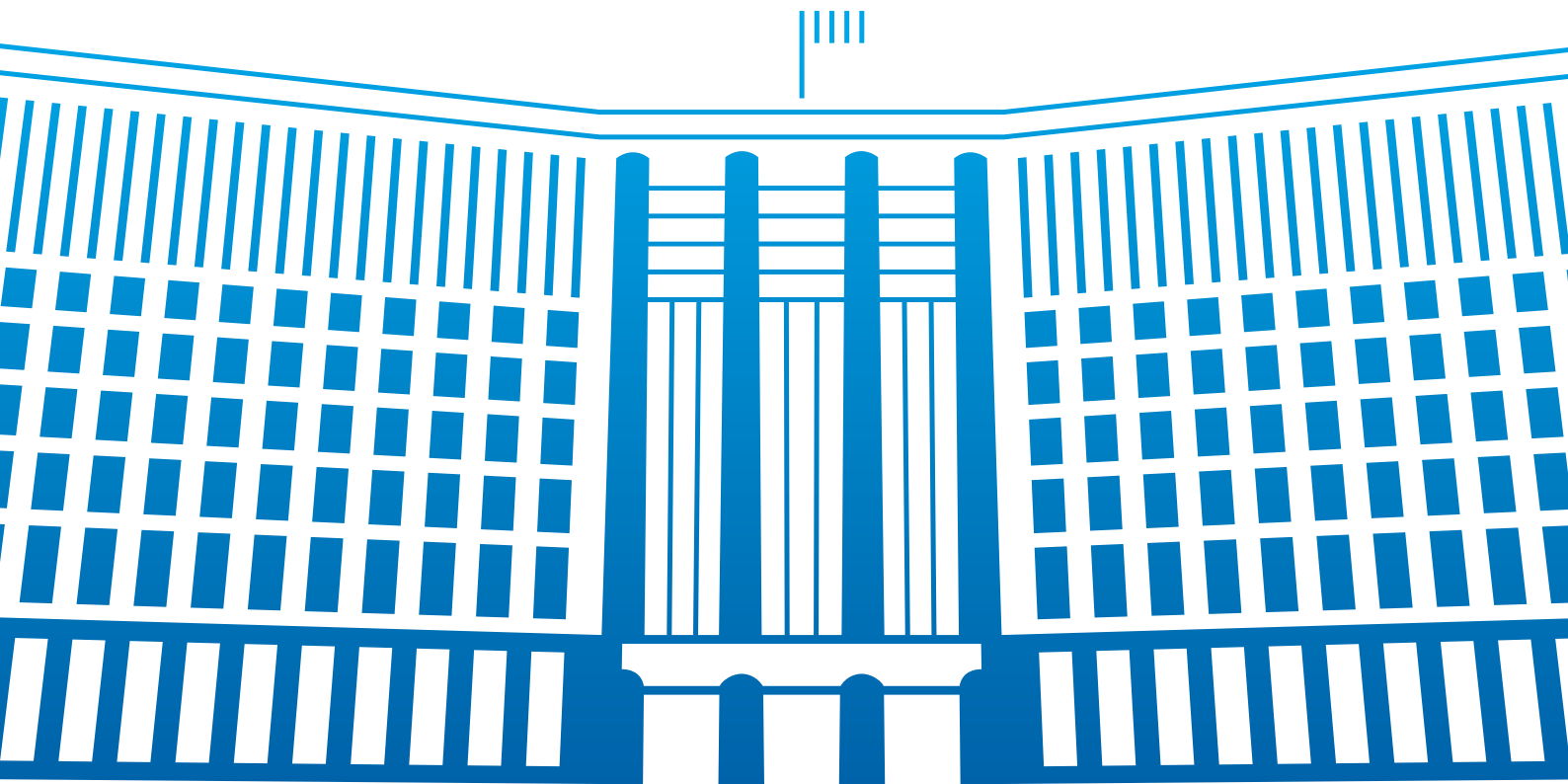


*Empowered lives.
Resilient nations.*

PARLIAMENTARY OVERSIGHT

IN MOLDOVA

Assessment report



February 2018



The Parliament of the Republic
of Moldova



*Empowered lives.
Resilient nations.*

Parliamentary oversight in Moldova

Assessment report
with recommendations

8.02.2018





The assessment report “Parliamentary Oversight in Moldova” has been drafted by Franklin De Vrieze, international parliamentary consultant, with the support by Viorel Pirvan, national consultant.

The report is prepared within the framework of the “Strengthening Parliamentary Governance in Moldova” project, funded by the Government of Sweden and implemented by the United Nations Development Programme (UNDP) in Moldova.

The views expressed in the report are those of the author and do not necessarily represent the views of these institutions.

Author:

Franklin de Vrieze consultant PNUD MOLDOVA

 Printed on Recycled Paper

Layout: **Bons Offices**

ISBN

Table of Contents

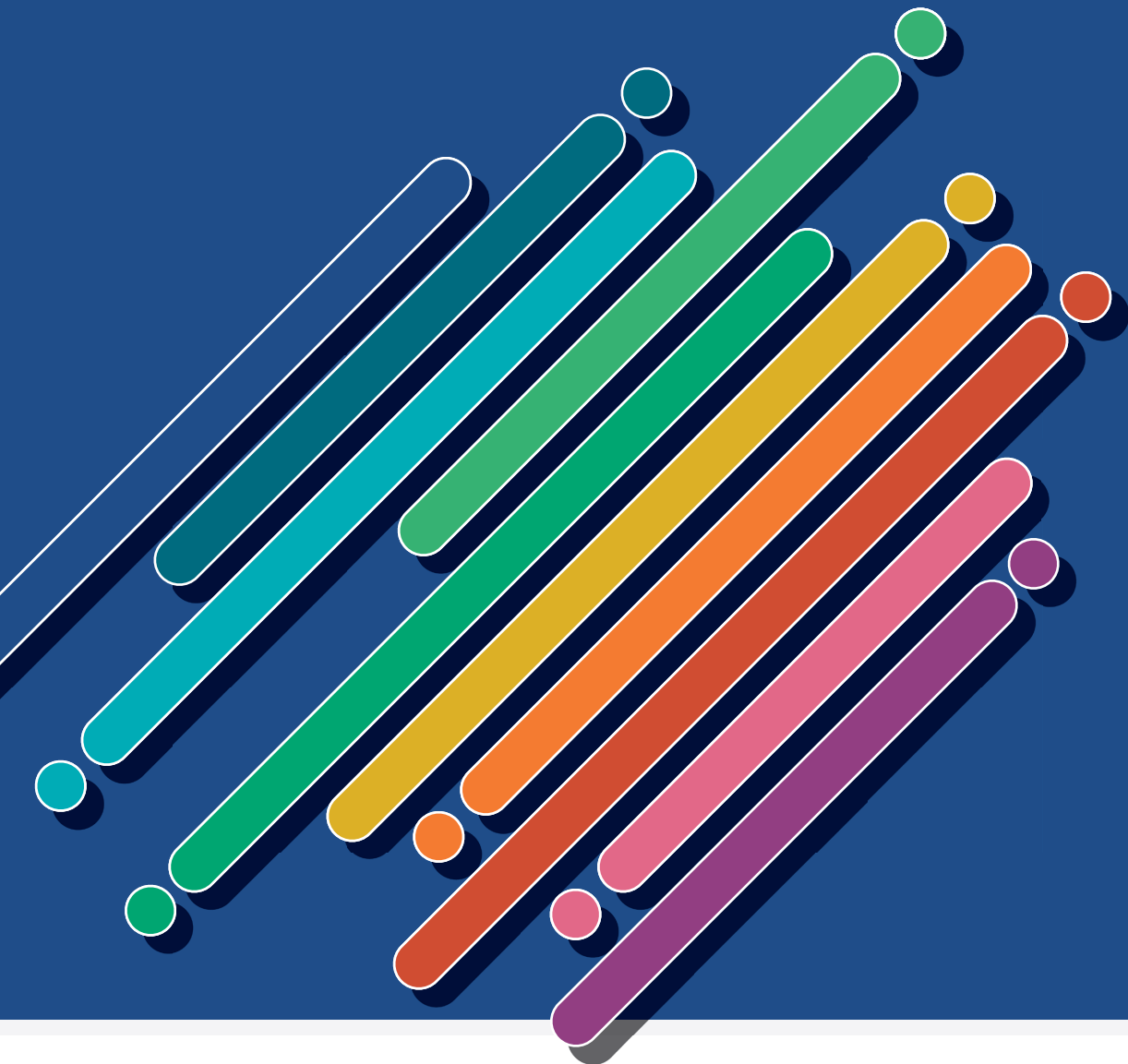
Abbreviations	5
Executive summary	8
Introduction	16
1. Committee oversight	20
1.1. Legal framework	20
1.2. Current practices in Moldova	22
1.3. European practices	24
1.4. Recommendations	25
2. Oversight of implementation of legislation	30
2.1. Legal framework	30
2.2. Current practices in Moldova	31
2.3. European practices	32
2.4. Recommendations	34
3. Follow-up to reports by independent institutions and regulatory agencies	40
3.1. Legal framework	41
3.2. Current practices in Moldova	41
3.3. European practices	44
3.4. Recommendations:	46
4. Oversight of budget execution	52
4.1. Legal framework	52
4.2. Current practices in Moldova	53
4.3. European practices	55
4.4. Recommendations	57
5. Oversight in plenary session	60
5.1. Legal framework	60
5.2. Current practices in Moldova	62
5.3. European practices	63
5.4. Recommendations	67

6. Oversight of gender equality policies and legislation	70
6.1. Legal framework	70
6.2. Current practices in Moldova	71
6.3. Recommendations on oversight of gender equality policies and legislation	72
Conclusion	76
Annexes	
Annex 1: Bibliography	80
Annex 2: Statistical data on parliamentary oversight in plenary session	83
Annex 3: Analysis chart of reports by independent institutions and regulatory agencies in Moldova	84
Annex 4: Agenda of meetings by the assessment team, 26 September – 5 October 2017	86

Abbreviations

ACT	Annual Activity Report
ANRE	National Regulatory Agency on Energy
ANSC	National Complaint Settlement Agency
CC	Constitutional Court
CCA	Audio-visual Media Council
CCES	Committee on Culture, Education and Science
CEBF	Committee on Economy, Budget and Finance
CEC	Central Elections Commission
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CoA	Court of Account
CONCU	Competition Agency
CSM	Superior Council of Magistracy of Moldova
CSO	Civil society organization
ECPRD	European Centre for Parliamentary Research and Documentation
EU	European Union
FIN	Annual Financial Report
GRB	Gender Responsive Budgeting
HRIER	Committee on Human Rights and Inter-Ethnic Relations
IPU	Interparliamentary Union
ISS	Information and Security Service
JUR	Committee on Legal Affairs, Appointments and Immunities
MoJ	Ministry of Justice
MP	Member of Parliament
N/A	Not applicable
OMBUD	Ombudsperson Institution (Avocatul Poporului)
PCRM	Party of Communists of Moldova
PDM	Democratic Party of Moldova
PL	Liberal party
PLDM	Liberal Democratic Party of Moldova
PROCU	General Prosecutor's Office
PSRM	Party of Socialists of the Republic of Moldova
RIA	Regulatory Impact Assessment
RoP	Rules of Procedure
SDGs	Sustainable Development Goals
SoP	Standard Operating Procedures
SSIF	State Social Insurance Fund
ToR	Terms of Reference
UNDP	United Nations Development Programme

Executive summary



EXECUTIVE SUMMARY



INTRODUCTION



COMMITTEE OVERSIGHT



OVERSIGHT OF IMPLEMENTATION OF LEGISLATION



FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS
AND REGULATORY AGENCIES



OVERSIGHT OF BUDGET EXECUTION



OVERSIGHT IN PLENARY SESSION



OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION



CONCLUSION



ANNEXES



Executive summary

Parliamentary oversight is one of the cornerstones of democracy. Oversight is a means of holding the Government accountable for its actions and of ensuring that it implements policies in accordance with the laws and budget passed by the Parliament. The robust monitoring of the executive by the Parliament is an indicator of good governance.

While the Parliament of Moldova has undertaken steps towards improvement of its oversight function by organizing public hearings and consultations, one can say that the oversight function still suffers from underperformance. To develop a more coherent approach to oversight, the Parliament of Moldova has requested the UNDP “Strengthening Parliamentary Governance in Moldova” Project to provide support in preparing the appropriate instruments and procedures for effective oversight. As the culture of parliamentary oversight in Moldova is still developing, an approach based on incremental steps is important. UNDP has asked its consultants Franklin De Vrieze and Viorel Pirvan to develop proposals and to accompany this process.

As a first step towards enhanced oversight, a solid baseline study is of high importance. The current report provides this baseline information, analysing six areas: committee oversight; oversight of implementation of legislation; follow-up to reports by independent institutions and regulatory agencies; oversight of budget execution; oversight in plenary session; and oversight of gender equality policies and legislation. For each of these six thematic areas, the report reviews the relevant legal framework, sets out the current practices, describes the experiences of other national parliaments in Europe, and makes recommendations. The description of current practices is based on the

interviews with Members of Parliament (MPs), parliament staff and other stakeholders. The information on oversight in other national parliaments in Europe is to a large extent based on the responses to questionnaires sent out by the European Centre for Parliamentary Research and Documentation (ECPRD), as well as on the Global Parliamentary Report and other sources.

The first substantive chapter of this report provides analyses the oversight by parliamentary committees. The Rules of Procedure (RoP) of the Parliament of Moldova provide for an array of tools for conducting committee oversight, such as parliamentary inquiries into the work of the Government and the public administration, subcommittees, special committees and committees of inquiry.

Reviewing current practices, it is noted that, over the last couple of years, parliamentary committees in Moldova have occasionally organized oversight hearings, establishing three special committees and three committees of inquiry during the current term of parliament. However, several gaps have been identified, including the limited follow-up to the findings and recommendations of the committee reports, uneven consideration of the committees’ recommendations by the ministries, the absence of systematic tracking the Government’s response to committee oversight findings and recommendations, and procedural unclarity on institutional responsibilities for follow-up to the reports of inquiry committees once the inquiry committees have been dissolved.

This report describes the relevant practices in national parliaments in Europe in terms of committee oversight. In the Netherlands, Committees have a very inclusive and transparent way of deciding oversight activities. Committees conduct “procedure meetings” where they

consider all proposals received (from MPs, government, CSOs, individuals) and decide which proposal will be dealt with at a public hearing, a round table, a meeting with a minister, a written reply, etc. In the UK, Committee oversight consists of Committees launching a call for written evidence and in-person hearings. The Committee report is sent to the government and other authorities for their response. While the government is not obliged to accept the recommendations, it is expected to respond in a substantial way, and explain why it accepts or does not accept the Committee recommendations.

The report makes detailed proposals for how the Parliament of Moldova can enhance the efficiency of its committee oversight in terms of planning, methodology and organization. It is suggested that committees will launch inquiries through a call for written evidence and public hearings or site visits. It is suggested that relevant Ministry and public authorities are requested to respond in a substantial way to the committee report, its findings and recommendations within a maximum period of two months, and that the committee chair informs the plenary session once every six months on the state of implementation of the committee report recommendations.

The second chapter of this report looks into parliament's role in oversight of the implementation of legislation. The RoP of the Parliament of Moldova and the Law on Legislative Acts require that Parliament reviews the implementation of legislation adopted. At present, there is no evidence that the parliamentary committees have taken on board this area of work. There is no formal, standardized mechanism in Parliament in place to track the progress of government departments towards law implementation. The State Chancellery carries out Regulatory Impact Assessments (RIAs) for draft

laws being considered by the Government, specifically in the sector of business development. The Ministry of Justice (MoJ) coordinates the monitoring of the implementation of legislation two years after its enactment, though the reports on the specific laws are not formally shared with Parliament and seem limited to technical aspects of the implementation of the legislation.

This report describes the relevant practices of national parliaments in Europe in terms of parliamentary oversight on implementation of legislation. The UK Government provides the House of Commons with a memorandum on the implementation of legislation three to five years after its adoption. In Montenegro, thematic committees relevant to EU integration issues conduct ex-post evaluation of legislation; this task is reflected in the RoP and the Parliament's Annual Action Plan.

The report makes detailed proposals on how the Parliament of Moldova can strengthen its oversight of the implementation of legislation in terms of planning, methodology and organization. We recommend that the Parliament of Moldova adopts an annual list of laws to review in terms of implementation, and requests the government's evaluation reports for these laws. It is suggested that parliament conducts a two-stage approach to the review of the implementation of legislation is conducted – a legal assessment and an impact assessment – by holding legislative impact hearings with relevant stakeholders and ensuring the analysis of the primary and secondary legislation at the same time. It is also suggested considering the RIA ex-ante assessments (baselines, indicators, targets) when compiling the committee ex-post assessment report on the impact of legislation. Further to this report, the UNDP project has prepared a parliamentary methodology for ex-post evaluation of legislation in Moldova.

The third chapter of this report looks into Parliament's follow-up of reports by independent institutions and regulatory agencies in Moldova.

Most of the legal framework on Parliament's interaction with independent institutions and regulatory agencies can be found in the legislation establishing the individual institutions and agencies, with little common approach as to their reporting requirements or governance structures.

The Parliament of Moldova receives reports by 20 independent institutions and regulatory agencies. These reports include a broad range of information and analysis, which can be of benefit to the parliament's oversight role in various areas of expertise. As a rule, Parliament often determines that it "takes note" of the report of that institution, though the discussion of the reports in committees or plenary and the follow-up to the discussion are very uneven.

This report mentions the relevant practices in national parliaments in Europe in terms of considering and follow-up to reports by independent institutions and regulatory agencies, such as in Lithuania, Slovenia, Croatia and the Czech Republic. The report includes a case study of how different national parliaments in Europe have established good practices in considering and following up the report of the ombudsman in their country.

The report makes detailed proposals how the Parliament of Moldova can enhance the efficiency of its interaction with independent institutions and regulatory agencies in terms of planning, methodology, organization, timing and outcome, and follow-up to considering reports of independent institutions and regulatory agencies. It is suggested that the Permanent Bureau adopts an annual calendar of debate on the reports of independent institutions and

regulatory agencies, with allocation of the reports to various standing committees. It is suggested that the Secretariat's Information-Analytical Department assesses the report of the independent institution or regulatory agency. Another recommendation is that committee staff send to the independent institution or regulatory agency and the relevant line Ministry the committee report and the plenary session resolution, and requests feedback from the independent institution or regulatory agency and the line Ministry within two months. It is suggested that the committee discusses, at least once a year, the feedback received from the independent institution or regulatory agency and the line Ministry, and that the chair informs the plenary session accordingly.

The fourth chapter of this report looks into Parliament's oversight of budget execution. Moldova has a solid legal framework on the role of the Court of Account (CoA) in the ex-post oversight of budgetary spending. The CoA submits annually by 15 March to Parliament the financial report on the implementation of its own budget during the expired budget year, and by 15 July the Report on the Management and Use of Financial Resources and Public Property, reviewed in the Plenary Meeting of Parliament.

There is an ongoing interest on the part of the Committee on Economy, Budget and Finance (CEBF) and other committees to examine CoA reports. The plenary session of Parliament completes the review of the CoA Annual Report, resulting in the adoption of a Decision of Parliament. While Parliament does conduct a plenary debate on the CoA Annual Report, there is no regular and established practice of in-depth hearings on chapters of the CoA Annual Report with the relevant ministries or state institutions.

This report mentions the practices in national parliaments in Europe on the oversight of bud-

get execution, such as in Lithuania, the UK and Poland, followed by a general assessment related to all European Union (EU) Member States. For instance, the Lithuanian Seimas has a Committee on Audit. It reviews annually 50 financial and performance audits, and takes 20 decisions urging the government and other state institutions to implement the audit recommendations. In Poland, the Committee requests a response within 30 days on its resolution addressed to the government and public authorities, instructing them to implement the recommendations of the CoA. The response is then debated in the Committee, and can be accepted or rejected.

The report makes suggestions on how the Parliament of Moldova can enhance the efficiency of its oversight of the budget execution. It is recommended that the CoA's report on the implementation of the budget and the Government's budget implementation report are examined simultaneously in Parliament, rather than with a gap of several months between, as is currently the case. It is recommended that the Committee conducts in-depth hearings on the findings and recommendations of the CoA Annual Report with the relevant ministries, state institutions and other public authorities, with a view to reinforcing and ensuring implementation of the CoA recommendations.

The fifth chapter of this report looks into parliamentary oversight in plenary session. The RoP of Parliament provide for several instruments to carry out the oversight in plenary session, such as simple motions, motions of no-confidence, questions from MPs to the Government and other public authorities, interpellations, hearings in plenary session and the Annual Activity Report of the Government.

Analysis of the current practices in Moldova indicate that questions and interpellations are the most widespread forms of parliamentary

scrutiny over the Government and public administration, often being used by the MPs from the parliamentary opposition. The Prime Minister of Moldova does not come to Parliament to answer MPs' questions, except when presenting the Government's activity report. Since his appointment to office (20 January 2016), the current Prime Minister has come to Parliament only once, in June 2017, to present the Government workplan, after a gap of 18 months. During meetings with the UNDP international parliamentary consultant in October 2017, representatives of all political factions and groups expressed an interest in having a more regular question time with the Prime Minister, in line with practices in other European countries.

When a motion is submitted for debate, at the indication of the President of Parliament, the Legal Division carries out the legal expertise of the motions. There is no practice of asking the Standing Committees in whose remit the subject matter of the motion falls to give their views on the subject matter.

This report mentions the practices in national parliaments in Europe on parliamentary oversight in plenary sessions, and provides relevant data on eight issues: frequency of question time; number of questions at question time; participation of the Prime Minister in question time; selection of questions; notification of the Government; length of questions, answers and follow-up questions; written questions; and interpellations.

While the government provides a response to most written questions by MPs, the absence of the Prime Minister of Moldova from the parliament's plenary session is unique in Europe. The practice of the Prime Minister answering the questions of parliamentarians in plenary session is well established throughout Europe, and is regulated either as part of a Government

Question Time or specifically as Prime Ministerial Question Time. Some countries see the Prime Minister answer questions on a monthly basis (in Sweden, Slovenia and Norway). Some countries see the Prime Minister answer questions on a two-weekly basis (in Portugal) and most other European countries see the Prime Minister answer questions on a weekly basis. The selection of the questions for the Prime Minister and Ministers is decided either by the Speaker (in the Netherlands, Austria) or by the Parliament Bureau or Presidium (in Estonia, Latvia). On issues of the prior notification of the government on the questions, several practices can be identified. In France, only the name of the author of question is shared with the government, one hour before the session. In the Netherlands, the name of the author of the question and the general thematic area of the question are shared with the government. In Slovenia, Austria, Latvia and other countries, the name of the author of the question and the full text of the questions are published on-line and are forwarded to the government one day prior to the session in order to enable the Prime Minister and Ministers to best prepare for their answers.

The report makes suggestions on how the Parliament of Moldova can strengthen the oversight exercised through the plenary session. It is recommended that a Prime Minister's Question Time in the plenary session of Parliament is organised once per month, on a fixed day and for a minimum of 10 times per calendar year, for a period of 30 to 45 minutes. This recommendation builds upon the meeting of the international parliamentary consultant with representatives of various political groups, including with Mr. Marian Lupu, Chair of the parliamentary group of the Democratic Party, who endorsed the idea of a Prime Minister's Question Time on monthly basis. This report also recommends publishing on the parliament's website the

Questions to the Prime Minister and Ministers, written questions, interpellations and the respective answers, with a search function on the topic, the MP submitting the question, the date of the submission of the question and the date of the answer.

The sixth chapter of this report looks into the oversight of gender equality policies and legislation. The report acknowledges that the Parliament of Moldova has adopted several pieces of key legislation related to gender equality, as analysed in detail in the recent "Gender Audit of Parliament".

The report discusses the current practices, in particular the role of the parliamentary Committee on Human Rights and Inter-Ethnic Relations and the Committee on Social Protection, Health and Family in raising awareness of gender equality and ensuring that gender equality is implemented in Moldova.

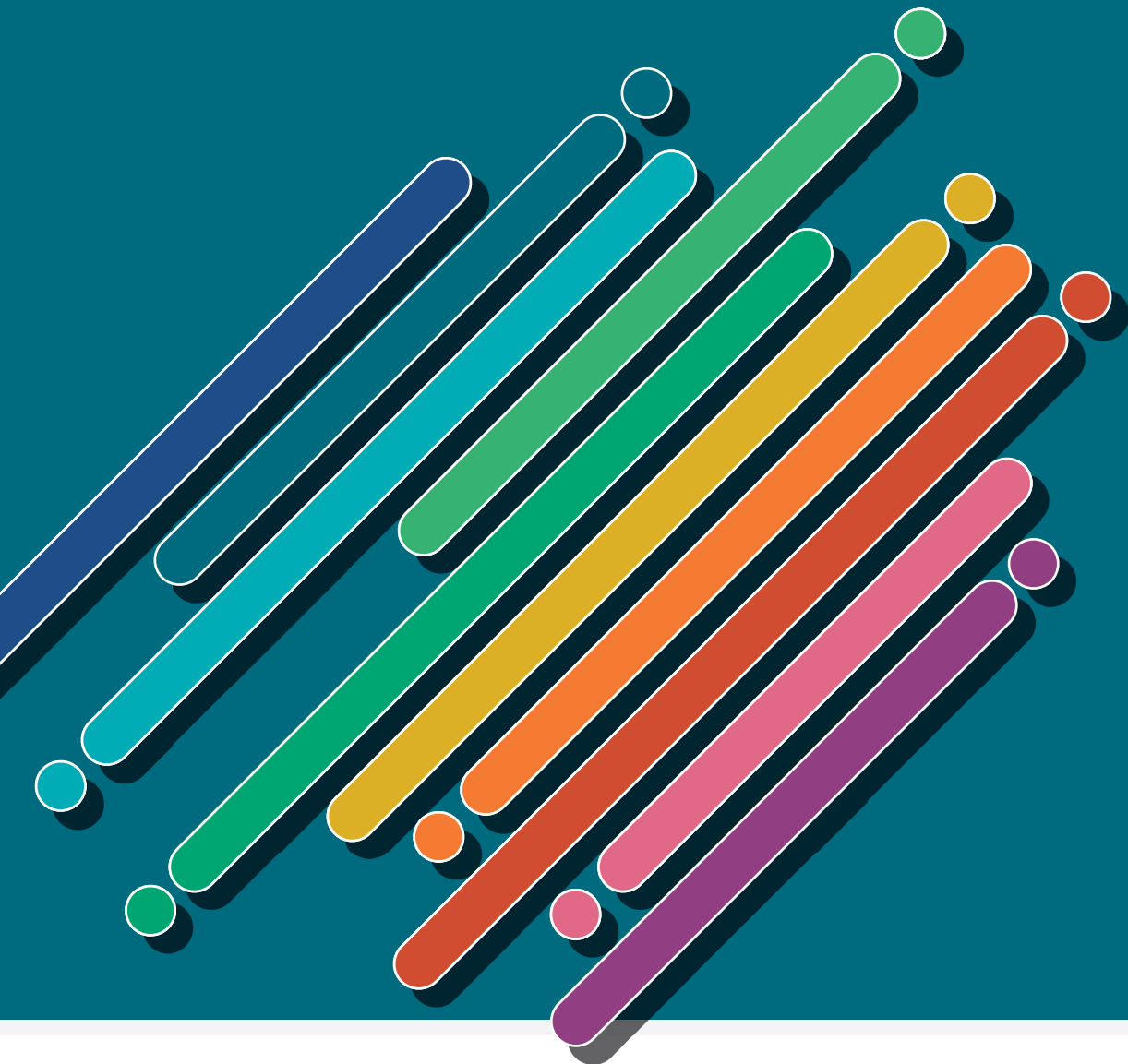
The report presents a comprehensive series of recommendations to strengthen parliamentary oversight on gender equality policies and legislation, such as to further implement the Gender Equality Action Plan for Parliament, engage with and oversee the national reporting process on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), scrutinize the proposed annual State Budget from a gender perspective, conduct gender impact evaluations of established key legislation and policies, and conduct oversight of the Gender Focal Points in the ministries.

The conclusion of the assessment report highlights the challenges to strengthening parliamentary oversight in Moldova while recognizing the importance of incremental steps. Nurturing a culture of parliamentary oversight requires time. It is mentioned that most of the proposals in the report are budget neutral, which can be

implemented without additional financial burdens or human resources. Their implementation depends on required amendments to the parliamentary Rules of Procedure, new Standard Operating Procedures (SOPs) for the staff of Parliament and the full engagement of the executive. The agreement of the Prime Minister and the Ministers of the Government to the proposals in this report is essential to achieve a more effective practice of parliamentary oversight in Moldova.

Experience in other European countries indicate that stronger oversight contributes to good governance and better service delivery to citizens. When political leaders build a culture of accountability and oversight, they can be proud of the legacy they will leave behind for future generations.

Introduction



EXECUTIVE SUMMARY



INTRODUCTION



COMMITTEE OVERSIGHT



OVERSIGHT OF IMPLEMENTATION OF LEGISLATION



FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS
AND REGULATORY AGENCIES



OVERSIGHT OF BUDGET EXECUTION



OVERSIGHT IN PLENARY SESSION



OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION



CONCLUSION



ANNEXES



Introduction

This report on parliamentary oversight in Moldova embarks on one of the most challenging tasks for any country transitioning to full democracy: establishing a system of “checks and balances” between Parliament and Government which improves the governance system of the country through increased accountability.

Why this assignment on parliamentary oversight in Moldova?

The oversight function is one of the key roles of the Moldova Parliament, as of any other democratic parliament. The oversight function entails Government being held accountable for its actions and ensuring that it implements policies and legislation in an effective manner. Parliamentary oversight requires formal rules, Parliament’s access to ministers, timely and informative reports on the policies and legislation, as well as full budget documentation and information on the implementation of policies and laws.

While over recent years the Parliament of Moldova has undertaken certain steps towards the improvement of its oversight function by amending its Rules of Procedure and by organizing public hearings and consultations, it is fair to say that the oversight function is still not performed to an adequate standard.

To develop a more coherent approach based on a standardized set of principles, the Parliament of Moldova has requested the UNDP “Strengthening Parliamentary Governance in Moldova” project to provide support for strengthening the instruments and procedures for effective oversight.

What are the outputs of the assignment?

To support the Parliament of Moldova in strengthening its oversight role, several outputs will be prepared:

- **Assessment report.** The current report provides an external assessment of the way the Parliament of Moldova currently exercises its oversight role, based upon a review of the legal framework. Taking on-board the experiences of other national parliaments in Europe in oversight, the report outlines a series of recommendations.
- **Amendments to the Rules of Procedure.** The main recommendations of the assessment report have been put into legal language in the format of proposed amendments to the RoP of Parliament. These amendments are prepared by the national consultant.
- **Regulation.** Following the presentation of the assessment report and draft amendments to the RoP, and to the extent requested by the Parliament Bureau, a regulation on parliamentary oversight can be prepared, outlining in further detail the procedural steps to exercise oversight in the Parliament of Moldova.
- **SoPs.** To assist the staff of Parliament in supporting the MPs in their oversight tasks, the SoPs will outline step by step the organizational aspects for each of the oversight tools.
- **Methodology for ex-post evaluation of legislation.** To ensure that the ex-post evaluation of legislation will be conducted in a systematic and well-documented way, a proposal for a methodology will be developed. The proposal will be prepared by the national consultant.
- **Workshops.** Throughout this assignment, the international and national consultants conducted three workshops with MPs, staff or both groups together. The purpose of the

workshops was to gather suggestions to incorporate in the above-mentioned outputs, to verify and validate the proposals, and to consider the best practices in the field. During September 2017, a first workshop with Committee staff took place. In November 2017, two workshops studied the recommendations of the experts, and considered the ideas included in the recently published Global Parliamentary Report on oversight.

How was this report prepared?

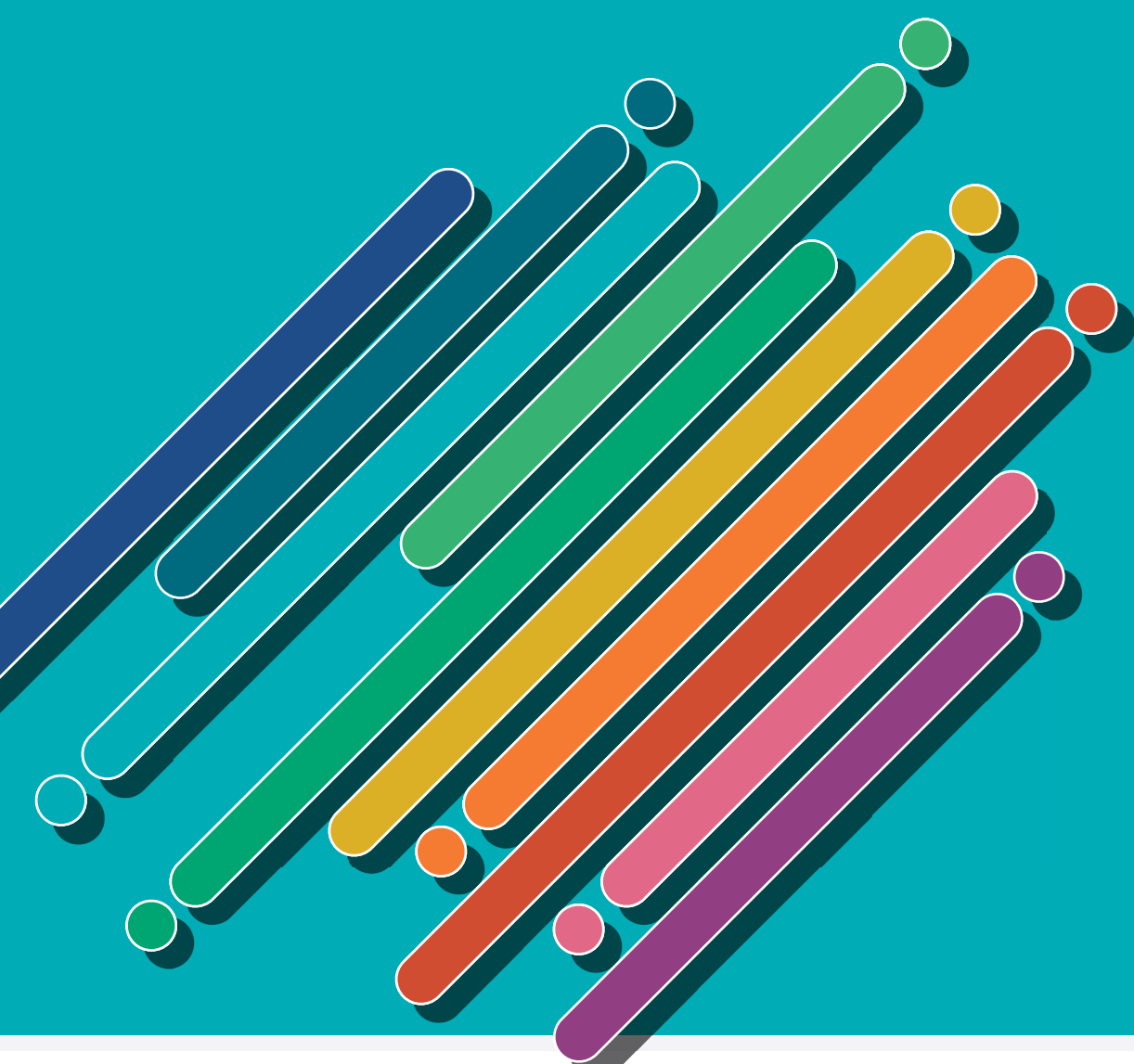
The following are the main methodological steps applied when preparing this report:

1. The substance of the above-mentioned outputs on oversight considered the findings emerging from a [comprehensive desk review](#) of the national legal framework, relevant studies, researches, reports, and EU/international best practices regarding parliamentary oversight activities.
2. The national experts conducted an [analysis of all legislative and procedural initiatives](#) proposing amendments to the parliamentary rules of procedures, registered in Parliament and a review and analysis of the current Rules of Procedure.
3. The international consultant has reviewed the [experiences of national parliaments in Europe](#) in oversight, in particular of the Baltic States, and countries in Central and Western Europe. He has analysed the information in the database of the ECPRD.
4. The consultants conducted [interviews with all relevant stakeholders](#) in Moldova, including heads of political groups and factions, Chairs of committees, MPs, Secretary-General, Director of the Legal Department, Advisers in the Cabinet of the Speaker, representatives of the Executive and independent institutions, civil society organisations (CSOs) and others (see agenda in annex 4 of the report).
5. To establish an inclusive and consultative approach, the consultants are working with the [Focus Group](#). The Group, composed of Legal Department and Committee staff, has been asked to oversee the development of the regulation, SoPs, amendments to the RoP and the methodology for the ex-post review of legislation.
6. The assignment is based upon close [cooperation between the international and national consultant](#). The two main deliverables for the national consultant, drafting amendments to the RoP and developing a methodology for ex-post evaluation of legislation, took into consideration the findings and recommendations of the assessment report on oversight. The consultants worked together on the assessment report.
7. The assessment report includes a [gender perspective](#) and elaborates why it is important for oversight to be gender-sensitive and how Parliament could improve its performance in this regard.
8. The Interparliamentary Union and UNDP have spearheaded a [second Global Parliamentary Report](#), dedicated to the topic of oversight. Some of its findings have informed the analysis in this assessment report. The presentation of the Global Parliamentary Report in Chisinau in November 2017 has created an opportunity to learn first-hand about the most recent trends in oversight around the globe.

Who is part of the assessment team?

The assessment team consists of Franklin De Vrieze, international parliamentary consultant and Viorel Pirvan, national consultant. The first series of interviews took place on 26 September–5 October 2017, followed by additional consultations during the week of 27 November–1 December 2017.

1 Committee oversight



EXECUTIVE SUMMARY



INTRODUCTION



COMMITTEE OVERSIGHT



OVERSIGHT OF IMPLEMENTATION OF LEGISLATION



FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS
AND REGULATORY AGENCIES



OVERSIGHT OF BUDGET EXECUTION



OVERSIGHT IN PLENARY SESSION



OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION



CONCLUSION



ANNEXES



1. Committee oversight

Committees play an important role in democratic parliaments worldwide. Committees are often responsible for reviewing and amending the relevant draft legislation that is tabled in Parliament. Furthermore, they are tasked with overseeing the work of the line ministries. In most democratic countries, committees' work includes reviewing the annual performance reports of ministries, as well as examining relevant reports prepared by the independent institutions and regulatory agencies.¹

The value of committees lies in their size and accessibility: committees allow a smaller group of MPs to examine in detail and over time a range of complex matters. Committees provide MPs with an opportunity to hear from others – members of the public, CSOs, experts, academics and the private sector – on topics of national concern and to have these representations placed on the public record. Committees also matter to MPs: they provide MPs with a means to probe into the detail of Government policies and programmes, gain a measure of expertise in a specific subject area, and make an impact on public policy.²

1.1. Legal framework

The RoP of the Parliament of Moldova contains several provisions regulating the oversight exercised by the committees, subcommittees, special committees and committees of inquiry of Parliament (Art. 25–27, 31–36, 126–128).

(1) European Commission, Reference Document on Strategies & Methodologies for working with Parliaments, Brussels, 2010, 196 p. https://ec.europa.eu/europeaid/sites/devco/files/study-engaging-supporting-parliaments-worldwide-201010_en_2.pdf

(2) Canada Parliament, Committees, Practical Guide. 9th ed (revised). Ottawa: Procedural Services, House of Commons, 2014. <https://www.ourcommons.ca/About/Guides/Committees-e.html>

- One of the tasks of the Standing Committees is to conduct **parliamentary inquiries** in order to verify the work of the Government or the public administration. Any Standing Committee may initiate an investigation, within its competence, on the work of public administration bodies. A Committee needs to obtain approval to conduct an inquiry. It is required to submit a written request, approved by the majority vote of its members, stating the issues that are the object of the investigation, its purpose, the necessary means and the deadline for submission of the Committee's report to Parliament. The Speaker of Parliament shall submit the request for approval to the Standing Bureau and shall notify the Committee of its approval or rejection.

In order to carry out the investigation, the Standing Committee may invite any person who has the official quality, except for the representatives of the judiciary power, the prosecutor's office and the criminal investigative body, for the purpose of presenting information that could prejudice the fairness of the case and/or the confidentiality of the prosecution. Attendance at the hearing is mandatory. The RoP provide for no questions about the personal life of the interviewee or his/her family. During the hearings, invited persons may refuse to give any information if the questions addressed relate, under the conditions laid down by law, to any state secret.

The investigation is finalized with the Committee report. The debate on the report is the exclusive competence of Parliament, which examines it in plenary. Although the RoP of Parliament does not expressly provide for it, following the examination of the reports, Parliament adopts resolutions, with certain conclusions, which are submitted to the competent authorities.

- Members of the Government and heads of public administration authorities have access to the **Committees'** work. They can speak at Committee meetings and answer questions. If the Committee decides to invite any member of the Government and/or leader of other public administration authorities at their meeting, they are obliged to attend the meeting. Similarly, the Committee may invite any interested person and specialist from the public administration authorities, specialized organizations, stakeholder representatives, as well as specialists from the Legal Directorate of the Parliament Secretariat and from the secretariats of the Standing Committees to its meetings.
- The Standing Committees have the right to establish **subcommittees**, designating their duties, composition and leadership. The Chair of the Standing Committee shall inform Parliament about the establishment of a subcommittee. According to Article 28 of the RoP of Parliament, the Standing Committee for National Security, Defence and Public Order shall have a subcommittee for conducting the parliamentary oversight over the activity of the Information and Security Service (ISS). The Chair of the subcommittee is elected from the representatives of the parliamentary opposition. The subcommittee shall oversee the observance by ISS of the constitutional and legal provisions that regulate the activity of ISS. In addition, the subcommittee shall ensure the political non-engagement of the ISS and shall supervise the observance by ISS of the democratic order in the state, fundamental human rights and freedoms. The members of the subcommittee shall have access to secret information, and shall sign, in each specific case, an obligation to respect the confidentiality of information that constitutes state secrets, being liable in accordance with the legislation.
- The Parliament may also set up **Special Committees**. The purpose of setting up a Special Committee shall be indicated in the decision on the establishment of that Committee. By the same decision, at the proposal of the Standing Bureau, the Committee's nominal composition and the deadline for submission of the Committee's report shall be designated.
- At the same time, at the request of a parliamentary faction or a group of MPs representing at least five per cent of the elected MPs, Parliament may decide to set up a **Committee of Inquiry**. It may hear as a witness any person who has information about the facts or circumstances that may serve to investigate the cause. At the request of the Committee of Inquiry, any person, institution or organization who knows evidence is required to respond to requests of the Committee and submit the evidence. The Committee of Inquiry cannot interfere with any criminal prosecution carried out under the law by the criminal investigation bodies and the courts, which is a common rule too for the majority of European parliaments.
- **Hearings** are mechanisms for collecting information, used in the process of examining draft laws, supervising and controlling the work of the Government, including ministries, in implementing the policies on important issues in society. Based on practices in other democratic parliaments,³ it is useful to distinguish between legislative hearings, oversight hearings and inquiry hearings (conducted during a parliamentary inquiry).

(3) National Democratic Institute, Service and Accountability – Public Hearing Manual, 2009, Skopje, 62 p. <https://www.ndi.org/sites/default/files/Service%20and%20accountability%20Public%20Hearing%20Manual.pdf>

- ▶ The purpose of a **legislative hearing** is to develop or modify a draft law in a way that takes advantage of the available expertise and reflects the public interest. According to Article 49/1 of the RoP of Parliament, the Standing Committee concerned ensures the public consultation on draft legislative Acts and legislative proposals with stakeholders through the organization of debates and public hearings, through other consultation procedures established by law on transparency in decision-making. According to Article 2 of law no. 239/2008 on transparency in the decision-making process, a “public hearing” is a meeting when the public authorities that fall under the present law consult on a draft decision subject to discussion with the opinion of citizens, associations established in compliance with the law, and other interested parties.
- ▶ The **oversight hearings** examine the work of the Government, including ministries, in particular how they apply the laws, as well as the performance of Government officials in managing professional responsibilities. Despite the fact that the RoP of Parliament does not contain many provisions on parliamentary hearings, it stipulates that the date and procedure for holding the hearings shall be established and brought to the attention of MPs and the Government by Parliament. Similarly, the RoP only indicates with regard to the Government’s annual report that it is distributed to the MPs at least 10 days before the plenary session at which it will be heard, and that the Government’s report is submitted by the Prime Minister. During the hearing of the reports of other public authorities, the Standing Bureau shall include it in the

draft agenda of the plenary session no later than 30 days from the date of presentation to Parliament.

- ▶ **Investigation hearings** investigate the suspicion of violation of law, offensive actions or inappropriate behaviour by the authorities or public bodies in the exercise of their official duties. The investigation hearings are organized by Special Committees of inquiry set up by Parliament to investigate a particular issue or by Standing Committees that can carry out such investigations as part of their normal work.

1.2. Current practices in Moldova

The current term of the Parliament of Moldova, constituted following the ordinary parliamentary elections of 30 November 2014, has established nine Standing Committees:

1. Committee for Legal Affairs, Appointments and Immunities
2. Committee for Economy, Budget and Finance
3. Committee for National Security, Defence and Public Order
4. Committee for Foreign Affairs and European Integration
5. Committee for Human Rights and Inter-Ethnic Relations
6. Committee for Public Administration, Regional Development, Environment and Climate Change
7. Committee for Culture, Education, Research, Youth, Sports and Media
8. Committee for Agriculture and Food
9. Committee for Social Protection, Health and Family

Over the last two years, parliamentary committees in Moldova have occasionally organized

oversight hearings. For example, in response to concern that the 2014 Education Code threatened the rights of linguistic minorities, the Human Rights and Inter-Ethnic Relations Committee held a series of hearings with the Minister of Education, the People's Advocate (Ombudsman), representatives of national minorities, civil society organizations and school directors. The Committee's report resulted in a significant review of the Education Code and the development of a National Plan to improve the quality of language learning, including instruction in minority languages. The report also proposed greater involvement of the public, and especially minority interests, in education policy and curriculum development. In the second half of 2017, the Parliament Bureau requested all Committees to start conducting oversight activities in a more comprehensive way, and each Committee identified two to three topics on which oversight hearings will be organized.

During its current mandate, the Parliament of Moldova has established three Special Committees, and two reports submitted to Parliament have been adopted so far by these committees. The three Special Committees were established for the purpose of: (1) control of Statements of Income and Property, declarations of personal interests and the declaration of conflicts of interest of the President and Members of the National Integrity Commission; (2) selection of candidates for the People's Advocate/Ombudsman for Children's Rights in 2015; and (3) approval of the package of legislative amendments to support farmers in 2015. The two reports adopted related to the Statements of Income and Property, the Declarations of Personal Interests and the Declaration of Conflicts of Interest of the President and Members of the National Integrity Commission.

During its current mandate, the parliament has established three Committees of Inquiry and

the first two of the committees have produced a report. The first Committee of Inquiry was established in 2015 to elucidate the situation on the financial and foreign exchange market of the Republic of Moldova, the measures taken to stabilize the exchange rate of the Moldovan leu in relation to the international currencies and the situation at Banca de Economii SA, BC Banca Socială SA and BC Unibank SA. The second Committee of Inquiry was established in 2015 to assess the exercise of the powers of the state authorities in the process of monitoring the implementation of commitments deriving from the concession contract for the assets managed by Chisinau International Airport, a state enterprise, and the related land. The third Committee of Inquiry was established in 2016 for the verification of the activity of Poșta Moldovei, also a state enterprise, regarding the information on the organization by the employees of the company of the illegal transport of prohibited substances outside the territory of the Republic of Moldova.

As the current practices of oversight by committees is uneven, the following gaps have been identified:⁴

- The reports emerging from the oversight hearings include findings and recommendations, but often the results are limited because Parliament and its Committees conduct little follow-up to the reports.
- Ministries' consideration of the Committees' recommendations is uneven. While there is generally no obligation for the Government to implement these recommendations, the Government should be required to consider and respond to them formally and promptly.

(4) Based upon interviews with staff of the Secretariat of the Parliament of Moldova, Chisinau, September 2017.

- No consolidated overview of the Government's response to Committee oversight findings and recommendations exists. There is no system in place for tracking the recommendations that Committees make to Government.
- The RoP of Parliament foresees the establishment of Committees of Inquiry, yet they are not clear who has the responsibility to follow up the conclusions and recommendations after the dissolution of the Committee, and which Secretariat structure is responsible for monitoring the follow-up.
- At the level of the Secretariat of Parliament, there is limited provision of parliamentary oversight in the staff job descriptions, and the division of work between various departments in terms of oversight is not determined.
- There is no midterm/long-term planning on oversight published on Parliament's website.

1.3. European practices

The ability of parliamentary committees to set their own agendas, including on topics for oversight hearings, is an important practice in national parliaments in Europe. Parliament's RoP generally define how a Committee determines its programme of work. In cases when Committees need authorization from Parliament to initiate studies, reports or inquiries, this means that committees need the support of the parliamentary majority (or the Government) to undertake inquiries. This tends to limit the possibility for Committees to control their agendas, and for opposition MPs to bring to the Committee issues that may not have majority support.⁵

(5) Interparliamentary Union, *Parliament and Democracy in the Twenty-First Century: a Guide to Good Practice*, Geneva, 2006, 140 p. http://archive.ipu.org/PDF/publications/democracy_en.pdf

A range of actors can be involved in Committee agenda-setting, including Parliament as a whole, the Speaker or parliamentary leaders, the leaders of political parties, and the Chair and/or members of the Committee. In many cases, the leadership – of Parliament or of the Committee – has great power in determining the Committee agenda, whether by deciding what items to place on the agenda, or what should not be included.

While in Moldova a Committee proposal to conduct an inquiry into an issue, approved by the majority of its members, needs further approval by the Parliament Bureau, in most other European countries the decision to conduct an inquiry rests within the Committee.

The Parliament of the Netherlands has a particularly inclusive and transparent procedure for agenda-setting. Dutch committees have procedure meetings every two weeks. These meetings are public. All items submitted in Parliament to the Committee by the responsible Minister are on the agenda for discussion. All letters from organizations and from the public are on the agenda. The Committees then decide on hearings, round-table meetings, the advice the Committee needs, Committee meetings with the Minister for oversight reasons, etc.⁶

In the Parliament of Slovenia, the Chair of the Committee decides whether to have a hearing on a specific topic proposed. Constituents, citizens or an association can simply put forward a proposal, and the Committee debates such proposals and comes to a decision. This kind of autonomy for the Committee leads to more participants who are more engaged and who have a

(6) UNDP and IPU, *Global Parliamentary Report – parliamentary oversight*, New York and Geneva, 2017, 117 p. http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/parliamentary_development/global-parliamentary-report-2017.html

greater sense of ownership of the Committee's work.

Irrespective of the issue being considered, Committees conducting oversight need to engage a broad spectrum of society in their deliberations. This not only enhances the evidence-gathering process and improves Committee operations, but public engagement aids transparency of parliamentary processes and increases public trust.

Committees should systematically keep track of the recommendations they make and the Government's responses to these recommendations. Having a system for tracking its recommendations to Government, and the Government's responses, helps Parliament to maintain a focus on these recommendations, and possibly accords greater value to them. Government may feel that a greater obligation to respond if it knows that a lack of response will be publicized.

The Spanish Congress of Deputies notes that Government responses are available to the public. All Government responses received are published in the Official Journal, and are recorded in the database available to all parliamentarians. Commitments made by members of the Government are recorded in the minutes of the session, which are also accessible in the database.

In Sweden, the Parliamentary Evaluation and Research Unit follows up and evaluates the implementation of decisions of the Riksdag (the Swedish Parliament).

1.4. Recommendations

1. On parliament's **planning** on Committee oversight, we recommend:

- Committees include in their annual work-plan a specific section on oversight, dedicated to preparations of Committee oversight hearings, organizing Committee oversight hearings, and follow-up to Committee oversight hearings, including timelines, responsible persons and expected outputs.
- Committees decide on topics for oversight activities on a six-monthly basis, and inform the Parliament Bureau on planned oversight activities (rather than asking for the Bureau's authorization).
- RoP clarify who follows up the conclusions and recommendations of the Inquiry Committee (after the Inquiry Committee is dissolved) and which Secretariat structure is responsible for monitoring the follow-up. Either the RoP should identify a specific body or structure responsible, or they should determine that this will be decided on case-by-case basis at the time when the Inquiry Committee is established.

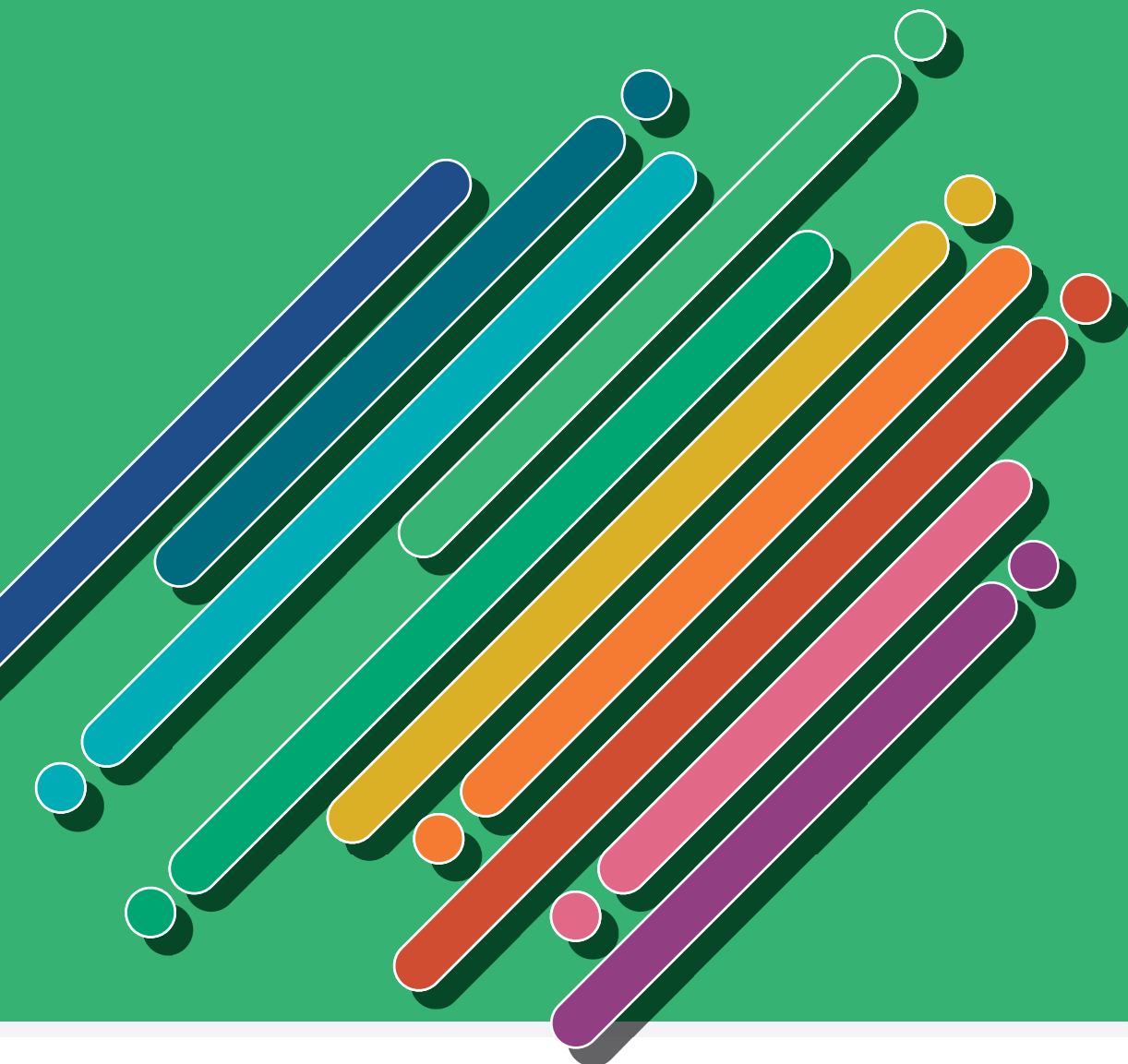
2. On the **methodology** for Committee oversight, we recommend:

- Committees decide on the objectives of the oversight activities, the organization, the expected outcomes and the follow-up.
- Committees call for written evidence by external actors: they should request written evidence from ministries and other public authorities, and enable the submission of written evidence by any other interested stakeholders (based on a public call for evidence).

- Parliament staff analyse and summarize the written information received and draft a summary document for the Committee chairs and members, identifying issues for further discussion during the in-person hearings.
 - Committees conduct in-person public hearings based upon the list of issues identified and questions agreed among Committee members.
 - Committees conduct possible site-visits to complement the findings from the in-person hearings.
 - Committee oversight activities result in a Committee report with findings and recommendations.
 - Relevant ministries and public authorities respond to the report, its findings and recommendations (acceptance in full, in part or rejected) within a maximum period of two months.
 - The Committee Chair informs the plenary session once every six months on the state of implementation of the Committee report's recommendations.
 - The Bureau agrees a system of gradually increasing pressure on public authorities or independent institutions who refuse to respond or attend hearings organized by Parliament or its Committees:
 - ▶ Committee staff indicate in an overview table published online which public authorities or independent institutions have and have not attended a Committee meeting or hearing when invited to do so, and which authorities and institutions have responded to the Committee report;
 - ▶ Committee Chair calls upon (in private or public) the public authorities or independent institutions to attend the Committee meeting or hearing when invited to do so, and to respond to the Committee report;
 - ▶ The Speaker of Parliament writes a letter and/or informs the plenary session which public authorities or independent institutions have refused to attend a Committee meeting or hearing as invited, and which have responded to the Committee report.
3. On the **organization** of the Committee oversight, we recommend that the Secretariat adopts SoPs on the work planning and organization on Committee oversight hearings during three phases: preparation, implementation and follow-up:
- SoPs clarify the role of the Committee staff, the Legal Department and Analytical Information Division.
 - Secretariat staff (Analytical Information Division) compile and analyse relevant background reports on the topic of the public hearing, including reports which are not from public authorities, such as think-tanks and CSOs.
 - The Legal Department prepares a legal assessment on the topic of the public hearing when requested.
 - The Committee Chair assigns one Committee staff to prepare for the hearing. The Committee may choose to appoint one of its Members to coordinate preparation for the hearing.
 - Committee staff draft questions for consideration by MPs during the public hearing.

- Committee staff select invitees for the public hearing, including senior departmental officials, Ministers of the Government, representatives of industry and economic sectors, independent institutions and regulatory agencies, CSOs, academics, sector experts and knowledgeable private individuals.
- Committee staff ensure the organization of public hearings and field visits.
- Committee staff prepare the draft report with findings and recommendations for consideration by the Committee.
- Committee staff send the report to relevant ministries and public authorities to request a response to the report and its recommendations (acceptance in full, in part or rejected) within two months.
- Committee staff track the response and implementation of the recommendations of the Committee report, and make this information publicly available through a tracking table published on Parliament's website. The tracking table should include the following information for each of the individual recommendations:
 - ▶ the date when recommendations were adopted
 - ▶ the due date for the Government's response
 - ▶ the due date for the implementation of the recommended actions
 - ▶ the responsible party in Government/public authorities charged with implementation
- Each Committee assigns one staff member to prepare the Chair's six-monthly report to the plenary on the follow-up and state of implementation of the Committee's recommendations.

2 Oversight of implementation of legislation



EXECUTIVE SUMMARY



INTRODUCTION



COMMITTEE OVERSIGHT



OVERSIGHT OF IMPLEMENTATION OF LEGISLATION



FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS
AND REGULATORY AGENCIES



OVERSIGHT OF BUDGET EXECUTION



OVERSIGHT IN PLENARY SESSION



OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION



CONCLUSION



ANNEXES



2. Oversight of implementation of legislation

Parliaments worldwide invest considerable time and resources in debating, reviewing, approving and amending legislation. However, often Parliaments have little information about the extent to which the legislation they have adopted is being implemented as they have intended, and what the challenges are related to the implementation of legislation. While implementing legislation is the responsibility of the executive and other public authorities, it is the task of Parliament, as part of its oversight responsibility, to oversee that laws, once adopted, also fulfil their policy objectives.

The analysis of the implementation of legislation has two dimensions: first, the review of the enactment of the law by the executive; and second the review of the impact of the legislation. While the first dimension is mainly focused on monitoring to what extent the ministries have put in place secondary legislation and if there are any court cases relevant to the enforcement of this law, the second dimension is mainly focused on the evaluation of the impact of the law and to what extent the law has achieved its policy objectives.⁷

2.1. Legal framework

The Parliament of Moldova has several provisions in the RoP relevant to oversight on the implementation of legislation. According to the

RoP, “the parliamentary committee shall present recommendations to the Government and/or other public authorities and, upon necessity, shall present to the Parliament reports on enforcement of the laws, usually within 6 months from entering into force of the respective law” (RoP, Art. 111). Furthermore, the Law on Legislative Acts requires that Parliament “review of legislative acts shall be made periodically, at least once in two years” (Art. 50).

While the provision in the RoP seems to be related mainly to information on the enactment of the law (the first dimension of the analysis of the implementation of legislation), the provision of the Law on Legislative Acts refers to information on the impact of the legislation (the second dimension of the analysis of the implementation of legislation).

The RoP of Parliament contains a single article on parliamentary oversight of the adopted legislation, entitled “Carrying out of oversight and presentation of reports on enforcement of the laws”. Hence, the oversight of the enforcement of the law by competent individuals and institutions, as well as determining the efficiency of the law, shall be handed to the Standing Committee assisted by the Legal Department of the Parliament’s Secretariat, to other Committees established for this purpose by the Parliament. As a result of the oversight, the parliamentary committee shall present recommendations to the Government and/or other public authorities and, when needed, shall present to Parliament reports on the enforcement of the laws, usually within six months from the entering into force of the respective law.

According to the Law No. 136 of 7 July 2017 on Government (Art. 35), one of the main tasks of the Government is to ensure the implementation of the normative Acts of Parliament, to monitor and analyse the efficiency of the im-

7) De Vrieze, Franklin and Hasson, Victoria, Post-Legislative Scrutiny – Comparative study of practices of post-legislative scrutiny in selected parliaments and the rationale for its place in democracy assistance, Westminster Foundation for Democracy, London, 2017, 56 p. <http://www.wfd.org/wp-content/uploads/2017/08/Comparative-Study-PLS-WEB.pdf>

plementation of the normative Acts by the ministries, other central administrative authorities subordinated to the Government and the organizational structures within their sphere of competence, and to monitor and control their implementation.

2.2. Current practices in Moldova

At present, there is no evidence that the parliamentary Committees are monitoring the implementation of legislation, for either of the two dimensions of the analysis. There is no formal, standardized mechanism in Parliament in place to track the progress of government departments towards implementation.

“Implementation of legislation often suffers considerable delay due to late issuing of secondary legislation. A solution would be for the Government to present to parliament the draft Government decisions to implement the law at the same time when the primary legislation is introduced to parliament. In this way, parliament will have the assurance that there won't be extensive delays in implementing the approved legislation.”

Mr. Vasile Bolea, Secretary of Parliamentary Group of the Party of Socialists of the Republic of Moldova (PSRM)

The Moldova Government has established two assessment mechanisms which are relevant to the issue of the implementation of legislation. First, the State Chancellery carries out a RIA for draft laws being considered by the Government, specifically in the sector of business development. The RIA reports are published online when the draft law is subject to public consultations.⁸ The RIA reports are part of the informative note attached to the draft laws as sent to Parliament.⁹

(8) See: www.particip.gov.md

(9) Interview with senior officials of the State Chancellery of Moldova, Chisinau, September 2017.

Second, the MoJ coordinates the monitoring of the implementation of legislation two years after its enactment.¹⁰ The MoJ, together with other ministries, draws up a list of laws whose implementation is to be reviewed, based on a methodology approved by the Government. MoJ reviews the reports on the different laws and presents a summary to the Government. While the summary is published on the Government's website, the evaluation reports on the laws are not officially shared with nor sent to Parliament. It is understood that these reports are limited to technical information on the enactment of the legislation and do not include a comprehensive nor consistent assessment of the impact of the law.¹¹

The RIA reports, as the ex-ante impact assessments, are a useful point of reference for the ex-post evaluation of implementation of legislation. While RIA reports are mandatory for draft laws proposed by the Government, that is not the case for legislative initiatives proposed by MPs, which often lack a RIA report. In the absence of RIA baselines and indicators, the impact of legislative initiatives proposed by MPs is harder to assess.

(10) Based on decision 1181 of the State Chancellery of the Government of Moldova.

(11) Interview with senior officials of the Ministry of Justice, Chisinau, November 2017.

2.3. European practices

This section on relevant practices in other European countries will consider the proceedings in parliaments in three countries: the UK, Belgium and Montenegro.

In the UK, all Committees of the Westminster Parliament may conduct ex-post evaluation of legislation, which is considered part of the oversight role of Parliament. The UK Parliament has established a systematic approach to ex-post evaluation of legislation through a system by which the Government submits a Memorandum to Parliament on the implementation of legislation three to five years after its official publication.¹² This system is based on an agreement between Government and Parliament and ensures that the Government provides to Parliament its written assessment on the state of affairs of the implementation of legislation. The period of three to five years after enactment means that there is sufficient evidence at hand to be able to assess the impact of the legislation. The Ministry who sponsored the law prepares a detailed Memorandum on the enactment of the law and its impact, and on possible challenges and lessons learned.

Upon receipt of the Memorandum, the House of Commons decides if further inquiry is needed. It may decide that the Government Memorandum provides sufficient information; or it may decide that it will conduct its own assessment on the implementation of legislation. In doing so, the Committee will then launch a call for written evidence, conduct hearings and prepare a report with recommendations.

(12) Kelly, Richard and Everett, Michael, Post-Legislative Scrutiny, House of Commons Library Standard Note: SN/PC/05232; 23 May 2013, London, 16 p. <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05232>

Once the Committee report is adopted, the parliamentary staff have the competency and authority to track the level of implementation of Committee recommendations and write to the relevant authorities.

In Montenegro, the analysis of the implementation of legislation takes place in the context of the reforms enacted within the framework of EU accession negotiations.¹³ The RoP of the Montenegrin Parliament stipulate that parliament committees have the responsibility to monitor and assess the implementation of legislation, in particular in terms of compliance with EU legislation. As a result, the oversight on the implementation of legislation is a direct obligation for seven out of 14 Committees who have a more direct role in EU-related legislation.¹⁴ In recent years, two Committees have been most active in the oversight on the implementation of legislation: the CEBF; and the Committee on Political System, Judiciary and Administration.

The Montenegrin Parliament has adopted an annual Action Plan, which determines that at least once every six months committees need to hold a meeting on implementation of policies and legislation. Hence, committees conduct “consultative hearings” on law implementation, with inputs from Government and other stakeholders. The committees’ conclusions are then proposed for adoption to the plenary. Once adopted, the Committee is authorized to follow up on implementation of its conclusions and recommendations. An example is the Committee on Gender Equality. It has conducted the most comprehensive and detailed examination on

(13) Monitoring and Evaluation of the Rule of Law in Montenegro, Institut Alternativa, November 2016; see p. 10. Available at: <http://media.institut-alternativa.org/2017/01/monitoring-and-evaluation-of-rule-of-law-in-montenegro.pdf>

(14) Rules of Procedure of the Parliament of Montenegro, Consolidated text, No. 00-63-2/13-44, 28 November 2013, at: http://www.skupstina.me/images/documents/rules_of_procedure_00-63-2.pdf

law implementation, with the support of externally outsourced research.

Finally, it is worth mentioning that some laws include specific articles on the parliament's role in ex-post evaluation of legislation, such as for instance the electoral legislation. In this case, the Montenegrin Parliament has established a special, temporary Committee to monitor the application of electoral legislation.

In Belgium, the House of Representatives and Senate had established (in the previous term of Parliament) a Joint Committee of two Chambers of Parliament on the ex-post evaluation of legislation.¹⁵ The RoP of Parliament determined that the Joint Committee may review the implementation of legislation on three occasions: (1) when there is a petition by individual(s) or organizations highlighting problems with implementing legislation which is in force for minimum of three years; (2) when the rulings of the Court of Arbitrage/Constitutional Court indicate that there are issues which have an impact on the system of rule of law; and (3) when the Annual Report of the General Prosecutor to Parliament indicates issues with the application of specific legislation.

Due to potential overlap with the work of the Standing Committee on Justice and Home Affairs, the Committee on ex-post evaluation of legislation has focused more on petitions from external stakeholders, in particular on petitions related to the system of rule of law and the administrative burden on citizens and companies. Hence, a particular focus for the review of legislation was how to make the administrative system less complicated for business and companies – how to generate less red tape.

What kind of follow-up was foreseen for the findings of the Committee? It has been agreed that legislation can be changed if all members of Committee reach a consensus that it should be changed. The reason for this is to ensure that the recommendations have broad support across parties and thus to take politically divisive issues out of the equation. It was also decided that the Committee meetings should be open to the public, that the Committee may ask advice of other Committees or external experts, and that its annual report should be made public.

Based upon our analysis of practices of ex-post review of implementation of legislation, a number of useful lessons learned can be identified. We are putting forward four lessons learned.

1. To make use of time and resources in the most effective way, Parliament needs a transparent process for identifying the pieces of legislation that are selected for review. It is preferable for limited resources to be applied in a manner that enables quality and effective ex-post evaluation of a few pieces of legislation a year, rather than less thorough evaluations of multiple Acts. However, it is possible to identify the types of Act that, in general, may or may not be suitable for ex-post evaluation of legislation. Legislation which is generally not suitable for ex-post evaluation of legislation includes: (1) appropriation Acts; (2) consolidation legislation; (3) legislation that makes minor technical changes only; and (4) legislation where the scheme of the legislation contains its own method of independent analysis and reporting. On the other hand, legislation adopted under fast-track or priority procedures should always be subject to ex-post evaluation of legislation. For Moldova, this is an important criterion, since a considerable amount of legislation is subject to priority

(15) <http://www.comitewetsevaluatie.be/indexN.html>

review. In addition, when analysing the impact of legislation, one needs to consider the cumulative effect of legislation, as well as how the state of affairs within a policy area has been shaped by different pieces of legislation. Legislative impact is rarely the effect of one single piece of legislation, hence the usefulness of considering the cumulative effect of legislation.

2. Acts of Parliament often grant ministers powers to make delegated or secondary legislation. It is ideal to review secondary legislation post-enactment at the same time as reviewing the parent legislation from which it owes its authority. This is particularly the case at times when most of the provisions giving effect to a piece of legislation are held within the secondary legislation, rather than the primary, and might lead to contradictions or gaps.¹⁶
3. Ex-post evaluation of legislation should avoid a simple replay of policy arguments from the time when the merits of the law were debated, but rather focus on the enactment and impact of the law by considering the evidence of how it has worked in practice. While the adoption of the law and the debate on the merits of the policy might have been divisive among political parties and MPs at the time, the ex-post evaluation of legislation should enable an in-depth look on the impact of legislation, determining how far the objectives have been achieved.¹⁷

4. The ex-post evaluation of legislation should take place under the authority of the Standing Committees. There are two aspects: a legal aspect and an impact. The legal aspect can be conducted by the Legal Department, while the impact assessment can be conducted by the Committee. Depending on the complexity of the matter, the Committee might be enabled to outsource this to external experts, if that is helpful. Therefore, it might be useful for a budget line for ex-post evaluation of legislation to be created, or a budget line for the Committees to have the possibility to outsource that, if and when necessary.

2.4. Recommendations

1. On Parliament's **planning** on reviewing the implementation of legislation, we recommend:
 - Committees include in their workplan the oversight of implementation of selected pieces of legislation which fall within the remit of the Committee.
 - The Permanent Bureau adopt an annual list of laws to review implementation, with allocation of the laws to various Standing Committees. The list is included in Parliament's Annual Activity Plan, which is approved by the plenary session.
 - Criteria for compiling the annual list of laws to review implementation:
 - ▶ Proposals by the Standing Committees
 - ▶ Political priorities as identified by the Permanent Bureau
 - ▶ Laws adopted under urgent or priority procedure

(16) Bernhardt, Peter, Parliamentary Scrutiny of Delegated Legislation in Canada: Too Late and Too Little? in: The Loophole—Journal of the Commonwealth Association of Legislative Counsel, Issue No. 3 of 2014, pp. 73–84. <http://www.calc.ngo/sites/default/files/loophole/dec-2014.pdf>

(17) The Law Commission, Post-Legislative Scrutiny, Published as LAW COM No 302, London, October 2006, 62 p. http://www.lawcom.gov.uk/app/uploads/2015/03/lc302_Post-legislative_Scrutiny.pdf

- ▶ Recommendations by civil society, experts and relevant stakeholders
 - Improving the legal framework for reviewing the implementation of legislation, by:
 - ▶ Ensuring that the law on regulatory Acts includes a provision that all draft laws reviewed by Parliament, including legislative initiatives by individual members, have a RIA report, thus facilitating a more systemic review of its impact later on; and
 - ▶ Ensuring that new legislation adopted by Parliament has clearly formulated clauses on the Government's task to report to Parliament on the implementation of legislation, such as: who prepares the report, the minimum standards for consultations, the evaluation criteria, and the format and timing of the report.
 - Parliament Secretariat (Legal Department) prepare a RIA report for laws initiated by MPs. While Parliament builds its human resources capacity to prepare for RIA reports, it may seek the assistance of RIA experts in the State Chancellery to conduct the RIA for laws initiated by MPs on a case-by-case basis.
2. On the **methodology** for ex-post review of implementation of legislation by Parliament, we recommend the following steps:
- Conduct a two-stages approach to the review: first a legal assessment, then an impact assessment:
 - ▶ The legal assessment will look at the legal aspects of the enactment of the legislation, whether secondary legislation has been issued, whether the implementing agency has been established or mandated, whether there are any legal impediments to the full implementation of the legislation, whether there are any court proceedings relevant to the implementation of the law, and whether the law has been challenged in the Constitutional Court.
 - ▶ The impact assessment will look at whether and to what extent the stated policy objectives have been met, what the social, financial, environmental and economic impact is of the law, how implementation and delivery can be improved, and what lessons learned can be identified.
 - Request the government ministries to submit to Parliament an assessment report on the impact of these laws which have been included in the annual list of law compiled by the Permanent Bureau and included in the Parliament's Annual Activity Plan. Prior to its formal approval, the draft list can be consulted between the Parliament Bureau and the State Chancellery.
 - Review the primary and secondary legislation at the same time.
 - Review governmental information, reports by other public authorities and analysis by experts, CSOs and other stakeholders.
 - Request Parliament access the legislative impact reports compiled by the MoJ on specific laws (rather than the summary report published online); and if needed, adopt amendments to legislation to ensure access to the governmental review reports.
 - Conduct legislative impact hearings with relevant stakeholders. The set-up of the

legislative impact hearings is similar to the oversight hearings mentioned above, but focused on the legislation rather than a specific policy question.

- Consider the RIA ex-ante assessments (baselines, indicators, targets) when compiling the Committee ex-post assessment report on the impact of legislation.

3. On the **organization** of the ex-post review of implementation of legislation by Parliament, we recommend the following steps:

- Assign the responsibility for the legal assessment to the Legal Department within the Secretariat of Parliament, resulting in a Memorandum provided to the Standing Committee conducting the ex-post impact assessment.
- Assign the impact assessment to the Standing Committee. Preparing the impact assessment report, the Committee staff (consultants) can request help from an outside expert or expert institution, which is contracted by Parliament. To do so, Committees will need to be able to rely on a Committee budget line for outsourcing purposes. To jump start this practice, the UNDP project can be asked to establish a pool of experts to contribute to conducting the ex-post evaluation of legislation and draft the impact assessment reports for the Standing Committees on the pieces of legislation identified.
- Connect with the www.particip.gov.md platform, which includes all the draft laws drafted by the Government, as well as the lex.justice.md platform, which contains all the normative Acts adopted by Parliament, the Government and other public authorities.

4. On the **timing** of the ex-post review of implementation of legislation by parliament, we recommend:

- Legal assessment: extending the term from six months to one year, to enable more time for the enactment of the law.
- Impact assessment: as a general rule, extending the term from two years to three years, to ensure that there will be sufficient evidence to identify relevant trends in law implementation.
- Exception: for legislation adopted under priority or emergency procedure or laws that need to produce an immediate effect, carrying out the assessment more quickly, after one year.
- Taking into account above time frames when compiling the annual list of laws to be reviewed.

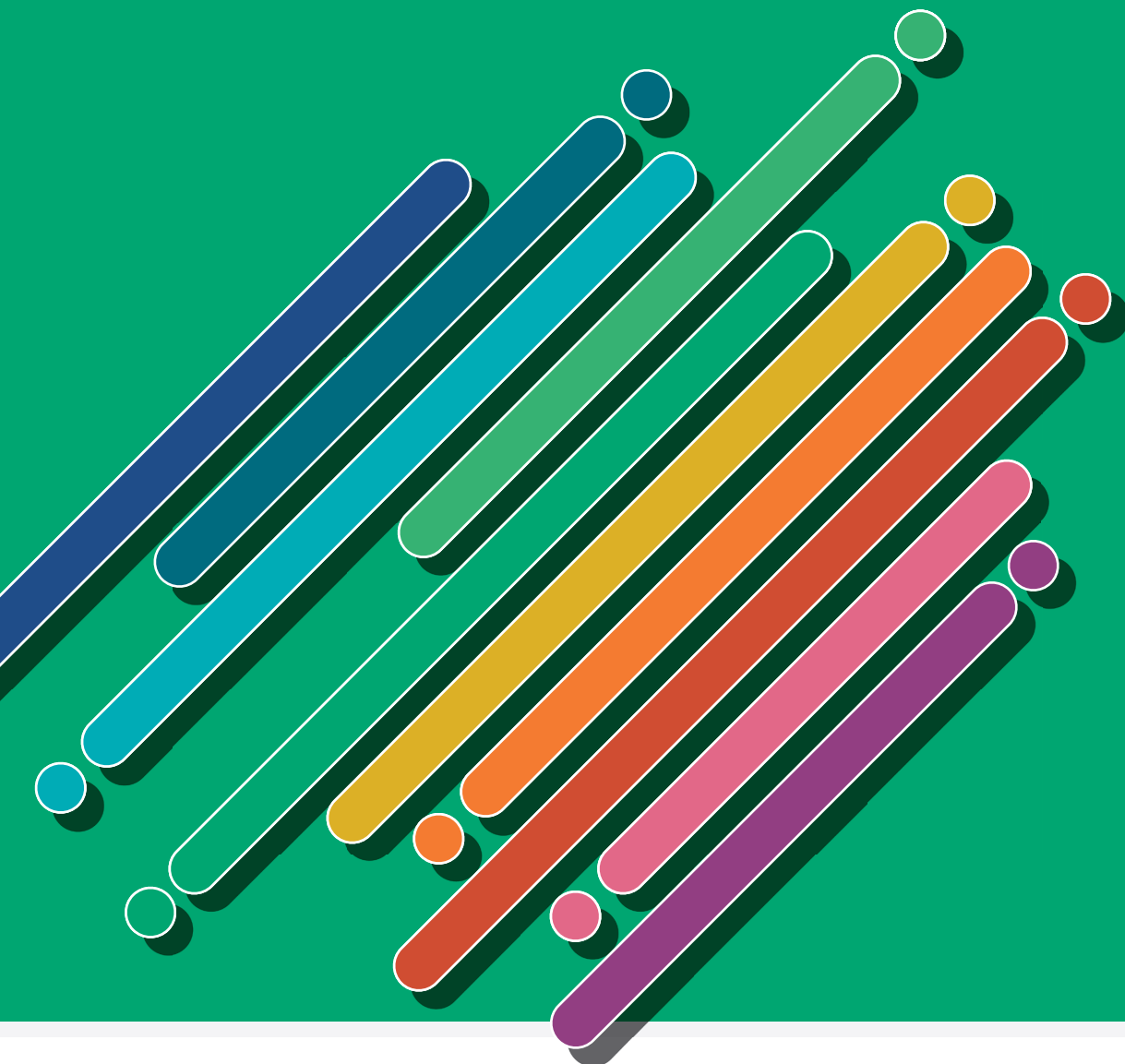
5. On the **outcome and follow-up** to the ex-post review of implementation of legislation by Parliament, we recommend the following steps:

- Adopt a Committee report with specific findings and recommendations for each Committee review of the implementation of legislation.
- Send the Committee report to the relevant Ministry and public authority, and request their feedback on the recommendations within a maximum period of two months.
- Establish an on-line and accessible tracking system of all recommendations included in the Committee report, the responses, and implementation/follow-up.



3

Follow-up to reports by independent institutions and regulatory agencies



EXECUTIVE SUMMARY



INTRODUCTION



COMMITTEE OVERSIGHT



OVERSIGHT OF IMPLEMENTATION OF LEGISLATION



**FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS
AND REGULATORY AGENCIES**



OVERSIGHT OF BUDGET EXECUTION



OVERSIGHT IN PLENARY SESSION



OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION



CONCLUSION



ANNEXES



3. Follow-up to reports by independent institutions and regulatory agencies

The governance system in many countries incorporates several independent institutions, mostly in the governance area, as well as regulatory agencies, mostly in the economic area.

Independent institutions perform oversight of the Government's compliance with good governance and human rights standards. Independent institutions include, for instance, the Ombudsman Institution, the Office of the Auditor General or the Court of Account (CoA), the Anti-Corruption Agency and Human Rights Commission.

Regulatory agencies perform a regulatory, licensing or quasi-judicial function. Regulatory agencies are, for instance, the Energy Market Regulatory Authority, the Public Procurement Authority and the Telecommunication Authority.

It is important to distinguish between independent advisory institutions and regulatory authorities. While independent institutions provide official and expert advice to Government, lawmakers and firms on specific policies and legislation and have the power to publish their recommendations, independent regulatory authorities are agencies charged with regulating specific aspects of an industry. Depending on the political system of the country, some of these independent institutions are constitutional bodies, established based upon a provision of the Constitution, while most regulatory agencies are established by a law regulating a specific economic sector. Regulatory agencies exist mainly in countries with democratic regimes or in countries transitioning to democracy.

Delegation of authority to independent institutions and regulatory agencies requires specific attention in terms of the accountability chain established in parliamentary democracies. As Parliament oversees the executive and its public administration, with the establishment of independent agencies, this articulated control structure is changing. In parallel with the extension of authority of the independent agencies, the impact and efficiency area of politics (Government as well as Parliament) shrinks.¹⁸

Some agencies regulate economic sectors where technical specialization and prudential oversight are essential, such as energy and telecommunications. The effectiveness of these regulatory agencies is primarily a function of the degree to which their mandate strikes a balance between their independence from industry and the Government, and their accountability towards the public.¹⁹

A key driver of this balance lies in the interaction between the agencies and Parliament. The central challenge is to design this interaction in a way that optimizes the equilibrium between independence and accountability. This means that the agencies are neither fully independent from the Government and Parliament, nor fully subordinate to Parliament, but operate "at arm's length", at an appropriate distance. That is how the system would look, at its best, but in practice in many countries, there is undue political interference in the work of the institutions and their work is not always sufficiently transparent.

(18) Giandomenico Majone, Strategy and Structure: the Political Economy of Agency Independence and Accountability, in: OECD, Designing Independent and Accountable Regulatory Authorities for High Quality Regulation. Proceedings of an Expert Meeting in London, United Kingdom, 10–11 January 2005, pp. 126–214. www.oecd.org/dataoecd/15/28/35028836.pdf

(19) Nick Malyshev, The Evolution of Regulatory Policy in OECD Countries, OECD, 2006, pp. 19–20. <http://www.oecd.org/dataoecd/24/10/41882845.pdf>

Parliament's interaction with independent institutions and regulatory agencies can be identified around three main areas: the institutions' and agencies' reports and their follow-up by Parliament; appointments to the boards or the leadership of the institutions and agencies; and the institutions' and agencies' budget and financial responsibilities.

3.1. Legal framework

The independent institutions and regulatory agencies in Moldova were established in two waves. A first wave emanated following the independence of the country and saw the establishment of institutions central to the existence of the state, such as, for instance, the Constitutional Court, the General Prosecutor's Office, the CoA, the National Bank, the Central Election Commission, etc. The second wave was of a more recent nature and brought the governance system in Moldova closer to standard European practices. As a result, new institutions were established, such as the National Anti-Corruption Centre, the National Centre for Data Protection, the National Integrity Authority, the Ombudsman Office, etc.

The legal framework on Parliament's interaction with independent institutions and regulatory agencies in Moldova is to some extent splintered. Most of the legal framework can be found in the legislation establishing the individual institutions and agencies, with little common approach to their reporting or governance structures.

Law No. 797 of 2 April 1996 on adopting the RoP of Parliament mentions the instruments for carrying out parliamentary control/oversight, and also highlights the annual reports of public authorities (Art. 128).

3.2. Current practices in Moldova

In Moldova, there are 20 independent institutions and regulatory agencies that report to Parliament. As per applicable legislation, Parliament often has a role in the approval of the budget of some of these independent institutions and regulatory agencies, or in the appointment of the head of the institution or members of the Board.

A first, comprehensive assessment of Parliament's interaction with some of these agencies was conducted by UNDP in 2011, upon the request of the CEBF.²⁰ In subsequent years, several amendments to the legislation of specific agencies were approved, related to the approval of their budget and the appointment of the members of their boards.

As identified by the Canadian consultant Geoff Dubrow in 2016, in Moldova "many MPs and parliamentary staff view the independent institutions as organizations that have their own enforcement power and should be accountable before Parliament for the results they are achieved. As a result, it is often expected that the heads of independence agencies should appear before Parliament to account for the results they have achieved rather than informing Parliament so that Parliament can consider the issues raised and place pressure on the executive branch to bring about corrective action."²¹

Reports by independent institutions and regulatory agencies include a broad scope of analysis, which can be of benefit to Parliament's oversight role in various areas of expertise. As a

(20) De Vrieze, Franklin, Independent institutions and regulatory agencies in Moldova and their interaction with parliament, UNDP Moldova, Chisinau, 2011, 150 p. <https://iniciativatpa.files.wordpress.com/2010/06/report-on-independent-institutions-final-version-original.pdf>

(21) Dubrow, Geoff, Role of Parliamentary committees: the parliamentary oversight function in the parliament of Moldova, Chisinau, UNDP Moldova, December 2016, 82 p.

rule, Parliament often determines that it “takes note” of the report of that institution, though the discussion of the reports in committees or plenary is very uneven. Specific legislation on these authorities is not always clear about how the institutions should report and what Parlia-

ment’s follow-up should be. In other words, MPs can make better use of the findings and recommendations of these reports.

The following are the institutions whose reports are considered by the Parliament of Moldova:

1.	Audiovisual Coordinating Council	http://www.cca.md/
2.	Central Electoral Commission of the Republic of Moldova	http://www.cec.md
3.	Constitutional Court of Moldova	http://www.constcourt.md/
4.	CoAs of Moldova	http://www.ccrm.md/
5.	General Prosecutor’s Office	http://www.procuratura.md/
6.	National Agency for Energy Regulation of Moldova	http://www.anre.md
7.	National Agency for the Protection of Competition of Moldova	https://www.competition.md/
8.	National Complaint Settlement Agency	http://ansc.md/
9.	Ombudsperson Office/People’s Advocate	http://ombudsman.md/
10.	Superior Council of Magistracy of Moldova	http://www.csm.md/
11.	Council for Prevention and Elimination of Discrimination and Ensuring Equality	http://egalitate.md/
12.	Deposit Guarantee Fund in the banking system of Moldova	http://fgdsb.md/
13.	ISS of the Republic of Moldova	http://www.sis.md/en
14.	National Anti-Corruption Centre of Moldova	https://www.cna.md/
15.	National Bank of Moldova	http://www.bnm.org/en
16.	National Centre for Data Protection of Moldova	http://www.datepersonale.md/
17.	National Commission for Financial Markets	http://www.cnpf.md/en/prez/
18.	National Legal Aid Council	http://www.cnajgs.md/en
19.	National Integrity Authority	http://ani.md/
20.	Public Property Agency: ²²	http://www.app.gov.md/

To analyse Parliament’s interaction with the independent institutions and regulatory agencies and, more specifically, Parliament’s follow-up to their reports, we designed a checklist with 20 questions. The checklist inquires about the type of report submitted to Parliament, the legal deadline for Parliament to receive the reports and whether legislation requires Parliament to formally approve the annual activity report of the institution. The checklist also assesses the nature of the Committee meeting on the reports of the institution: how long after receipt of the report the meeting was organized, whether a representative of the institution was present, whether there was a hearing with other stakeholders, and whether there were conclusions

adopted after the meeting of the Committee. The checklist analyses Parliament’s response to the report of the independent institution. Finally, the checklist inquires whether the Committee discussed budget requests of the institution or reviewed the external audit report on the institution, and whether there have been any changes to the mandate and powers of the institution during the last two years.

The comprehensive checklist makes it possible to carry out an in-depth assessment of how Par-

(22) Law No. 121 of 4 May 2007 on the administration and privatization of public property says the Government presents this report to Parliament. The Parliament’s website states that the Ministry of Economy presents the reports to Parliament.

liament processes the reports and makes use of the information included in the reports of the independent institutions and regulatory agencies, since this information can be very useful for the oversight role of Parliament.

The checklist has been sent to staff working for the Committees which are assigned to review the reports of these institutions. Within the time frame of preparing this report, the international consultant received a reply on the checklist for 16 out of 20 institutions. The data from the first 16 institutions on the above list of 20 institutions have thus been processed by the international consultant. All data have been inserted into the analysis chart, in the annex to this report. Unfortunately, no data were received on the remaining four institutions mentioned above.

While the information is not complete, the available data do enable us to identify relevant trends and present tentative conclusions on how Parliament deals with the reports of the independent institutions and regulatory agencies. As soon as the international consultant receives the additional responses to the checklist for the other institutions, the analysis will be further finetuned. The following are the preliminary trends:

- For three out of 16 institutions, legislation requires Parliament to formally approve the annual activity report. There is no such requirement for 13 out of 16 institutions.
- In all cases but one the institution can present, at its own initiative, reports or statements to Parliament.
- In most cases, institutions submit their report to Parliament on time, except for the Superior Council of Magistracy which was two weeks late, and the Constitutional Court, which did not submit a report during 2016

and 2017. The National Complaint Settlement Agency (ANSC) was established in 2017 and is yet to submit its first report.

- The relevant Committees conducted a meeting on the activity reports received for half of the cases in 2016 and 2017 combined.
- In cases when the Committee conducted a meeting on the report of the institution, the representatives of the institution itself did take part on the meeting.
- Only in three cases out of 16 the Committee organized a hearing with other stakeholders relevant to the subject matter of the report.
- In one third of cases when the Committee discussed the institution's report, it did not adopt a report with conclusions.
- Following the Committee's discussion on the reports from independent institutions and regulatory agencies, the response by Parliament as an institution becomes more diverse and fragmented. In 10 out of 16 cases, the report of the institution was distributed to all MPs (2016 and 2017). In 10 (2016) and seven (2017) out of 16 cases, the report of the institution was published on Parliament's website.
- The report of the institution was debated in plenary session in four out of 16 cases (2016) or three out of 16 cases (2017). A plenary session hearing with the head of the institution took place in two out of 13 cases (2016 and 2017). A plenary session declaration or resolution was adopted in three out of 16 cases (2016 and 2017).
- The Committee conducted follow-up meetings or correspondence on its review of the report with the independent institution in

seven (2016) and six (2017) out of 16 cases. The Committee conducted follow-up meetings or correspondence on the findings of the report with the Ministry and other public authorities in three out of 16 cases (2016 and 2017).

- The budget request of the institution has been discussed in the Committee during the last two years in five cases. The external financial and performance audit reports on the independent institution have been discussed in the parliamentary Committee during the last two years in four cases only.
- Finally, it is worth mentioning that the Parliament enacted changes to the mandate or powers of the independent institution during the last two years in 11 out of 16 cases. This figure seems to suggest that the institutional mandate of the institutions is not very stable.

The above analysis reveals the uneven and diverging practices in terms of Parliament's consideration and follow-up to the reports of independent institutions and regulatory agencies. Current practices seem largely determined by which Committee is in charge of the initial analysis and follow-up, and by the nature of the annual report received. Hence, one can make the case that there is need for a more consistent and coherent approach in Parliament's consideration and follow-up to the reports received from the independent institutions and regulatory agencies. Such approach is proposed in the section on recommendations, taking into account relevant practices in other national parliaments in Europe.

3.3. European practices

The comparative perspective for this section of the report will refer to relevant practices in four countries – Lithuania, Croatia, Slovenia and the

Czech Republic – and present a short case study of how different Parliaments in Europe follow up on the report of the Ombudsperson Institution.

The Seimas of the Republic of Lithuania has incorporated in its RoP some of the specific steps for dealing with annual activity report by the heads of state institutions, who are appointed by the Seimas or who require Seimas approval for appointment. The RoP stipulate that the Speaker makes a proposal regarding which Committee needs to analyse the report. Following its analysis, the Committee prepares a conclusion and the draft of a decision, which is considered at the Seimas sitting along with the report by the head of the institution. The Seimas adopts a resolution regarding the institution's activity and accounting. The leadership of the independent institutions may be summoned to appear before the appropriate Committees of the Seimas or at the plenary sitting of the Seimas.

In Croatia, independent institutions submit a report on their work to the Croatian Parliament, Sabor. Before discussing the report at the plenary session, the debate is conducted by the competent Committee of Parliament, which reports its findings to Parliament. In addition, the Croatian Parliament or its working bodies may request additional clarifications on certain issues from the independent institutions.

In Slovenia, the National Assembly may request additional information from the independent institutions and they must immediately forward the information and documents requested, unless it is contrary to the law.

In the Czech Republic, it is stipulated that the independent institutions are required to answer any request for additional information within 30 days, unless such a provision is prevented by laws regulating confidentiality or a ban on publication.

Analysing the established practices for one of these independent institutions, the Ombudsperson, one can identify different practices throughout Europe.

CASE STUDY: CONSIDERATION AND FOLLOW-UP ON THE REPORT OF THE OMBUDSPERSON²³

Different national parliaments in Europe have established different practices in considering and following up the report of the Ombudsperson in their country. The following is the information related to four key questions.

1. Is the Annual Report of the Ombudsperson discussed in the Committees?

- 1.1. It is discussed in one Committee in: Belgium, the Czech Republic, Denmark, Finland, Greece, the Netherlands, Lithuania, Poland, Slovakia, Slovenia, Sweden, the UK.
- 1.2. It is discussed in more than one Committee in: Croatia (several thematic committees), Estonia (Constitutional Committee and the Legal Affairs Committee), Slovenia and Finland (one lead Committee and other Committees are assigned to it based on the content of report and issue a statement or recommendation to the lead Committee).
- 1.3. All Committees in the Luxembourg Parliament are required to discuss and take a position on the report in the fields which concerns them.

2. What is the outcome of the Committee's consideration of the report?

- 2.1. The Committee prepares a resolution on the annual report for adoption by the plenary (Denmark, Lithuania, Czech Republic, Slovakia).
- 2.2. The Committee issues a report to inform all other Committees (Estonia, Latvia).
- 2.3. The Committee issues a report with recommendations for follow-up by Parliament (Finland).
- 2.4. The Committee issues a report with recommendations for follow-up by other state institutions (Greece).
- 2.5. The Committee issues a report, followed by an orientation debate in the plenary (no adoption of resolution) (Luxembourg).
- 2.6. The Committee issues a duly substantiated opinion, to be published in the Official Journal, and informs the plenary debate on the Ombudsperson's report (Portugal).
- 2.7. The Committee debates are published in full in Parliament's publication (Spain).
- 2.8. The Committee adopts a report including transcripts of all contributions during the Committee hearing (the UK).

3. Is the outcome of the Committee's consideration (conclusion, resolution, decision, report) submitted/communicated to the plenum and Government?

- 3.1. The Speaker transmits the Committee's report and findings on the work of the Ombudsperson to the competent Minister and Ombudsperson (Greece).
- 3.2. The Committee sends its report to all MPs and to the Government (Belgium).
- 3.3. The Committee communicates its views on the Ombudspersons report to the plenary session (Croatia, Denmark).

4. Do competent ministers participate in the discussion of the Ombudsperson's annual report in the Committee and in the plenary?

- 4.1. Ministers do not participate in these discussions (Estonia, Latvia, Lithuania).
- 4.2. One member of the Government has to participate (Croatia, Czech Republic, Denmark).
- 4.3. A minister may be invited by the Committee to participate (Finland, Greece, Belgium, Luxembourg, the UK).

(23) Information from: ECPD request 2625, Parliamentary Procedure for the annual report of the Ombudsman.

3.4. Recommendations:

1. On Parliament's **planning** on the reports of independent institutions and regulatory agencies, we recommend:

- The Permanent Bureau adopt an annual calendar of debate on the reports of independent institutions and regulatory agencies, with allocation of the reports to various Standing Committees. The calendar is included in Parliament's Annual Activity Plan, which is approved by the plenary session.
- The Committees include in their Workplan the discussion and hearing on the reports of independent institutions and regulatory agencies which fall within the remit of the Committee, as assigned by the Permanent Bureau.
- Improving the legal framework for reviewing the reports of independent institutions and regulatory agencies, by adding a provision to the RoP on the oversight role of Committees on the annual report on independent institutions and regulatory agencies (RoP Art. 128).
- Adopting a template structure for reports of independent institutions and regulatory agencies to Parliament, and communicating it to the relevant institutions.

2. On the **methodology** for reviewing reports of independent institutions and regulatory agencies, we recommend the following sequencing:

- The Parliament Bureau assigns the lead Committee for each report of independent institutions and regulatory agencies submitted to Parliament.

- The Committee Chair assigns one members of the Committee as a rapporteur, to review the report of the independent institution or regulatory agency.
- The Secretariat's Information-Analytical Department assesses the report of the independent institution or regulatory agency, within two weeks of receipt of the report in Parliament. The assessment needs to review to what extent the report complies with the template structure for reports, how the relevant trends compare with those of previous year(s) or other countries, what analysis other reports on the same matter bring forward (reports of CSOs, international organizations, experts), and what issues need further clarification during Committee review process.
- Committee discusses the report of the independent institution or regulatory agency and the assessment by the Secretariat Information-Analytical Department, and identify two or three topics on which further review will be concentrated.
- The Committee conducts a meeting with the head of the independent institution or regulatory agency on the two or three topics identified, and organizes a hearing with the responsible ministers, relevant stakeholders and interested parties mentioned in the report. This needs to happen within six weeks of receiving the report of the independent institution or regulatory agency, as foreseen in the annual calendar drafted by the Bureau and approved in Parliament's annual activity plan.
- Bringing in the perspective of other stakeholders is particularly relevant when the annual report analyses and makes recommendations on the functioning of other

state institutions or agencies, as is the case for – for instance – the report of the Ombudsperson, CoA or Constitutional Court. However, the perspective of other stakeholders is also important when analysing the report of other independent institutions as well, such as – for instance – the report of the Audio-Visual Council, where the perspective of national media organizations and international organizations dealing with freedom of the press (such as Freedom House) will be most valuable.

- The Rapporteur prepares the draft Committee findings and recommendations.
- The Committee debates and approves the Committee report, including a draft resolution for the plenary.
- The Committee report is shared with all MPs.
- The Parliament Bureau decides whether the report of the independent institution or regulatory agency and the Committee report be put on the agenda of the plenary, and when and if the head of the independent institution be heard a second time.²⁴
- If so, the plenary session conducts a debate and adopts a resolution as prepared by the Committee. This needs to happen within three weeks of the decision by the Bureau.
- The Committee staff send to the independent institution or regulatory agency and the relevant line Ministry either the Committee report, or the Committee report and the plenary session resolution, requesting feedback from the independent institution or regulatory agency and the line Ministry within two months.
- The Committee discusses, at least once a year, the feedback received from the independent institution or regulatory agency and the line Ministry, and the Chair informs the plenary session accordingly.
- All relevant documents are published on the website of Parliament: a report of the independent institution or regulatory agency, a report by the Committee, plenary session resolution, and feedback by the independent institution or regulatory agency and line Ministry.
- Parliament staff maintain an overview table on Parliament's website on the mentioned steps of Parliament's interaction with reports of independent institutions and regulatory agencies.

3. On the **organization** of reviewing reports of independent institutions and regulatory agencies by Parliament, we recommend:

- Assigning the responsibility for making an assessment of the reports of independent institutions and regulatory agencies to the Secretariat's Information-Analytical Department.
- Assigning the responsibility for organizing the meeting with the head of the agency, and the hearing with relevant stakeholders and interested parties mentioned in the report to the Committee staff.
- Assigning the responsibility for drafting the Committee report and draft resolution for the plenary to the rapporteur, with the support of the Committee staff.

⁽²⁴⁾ Bill 131 of 28 April 2017 determines that all reports of independent institutions and regulatory agencies will be put on the agenda of the plenary session. At the time of writing this report, the bill had not yet been approved.

4. On the **timing** of reviewing reports of independent institutions and regulatory agencies by Parliament, we recommend:

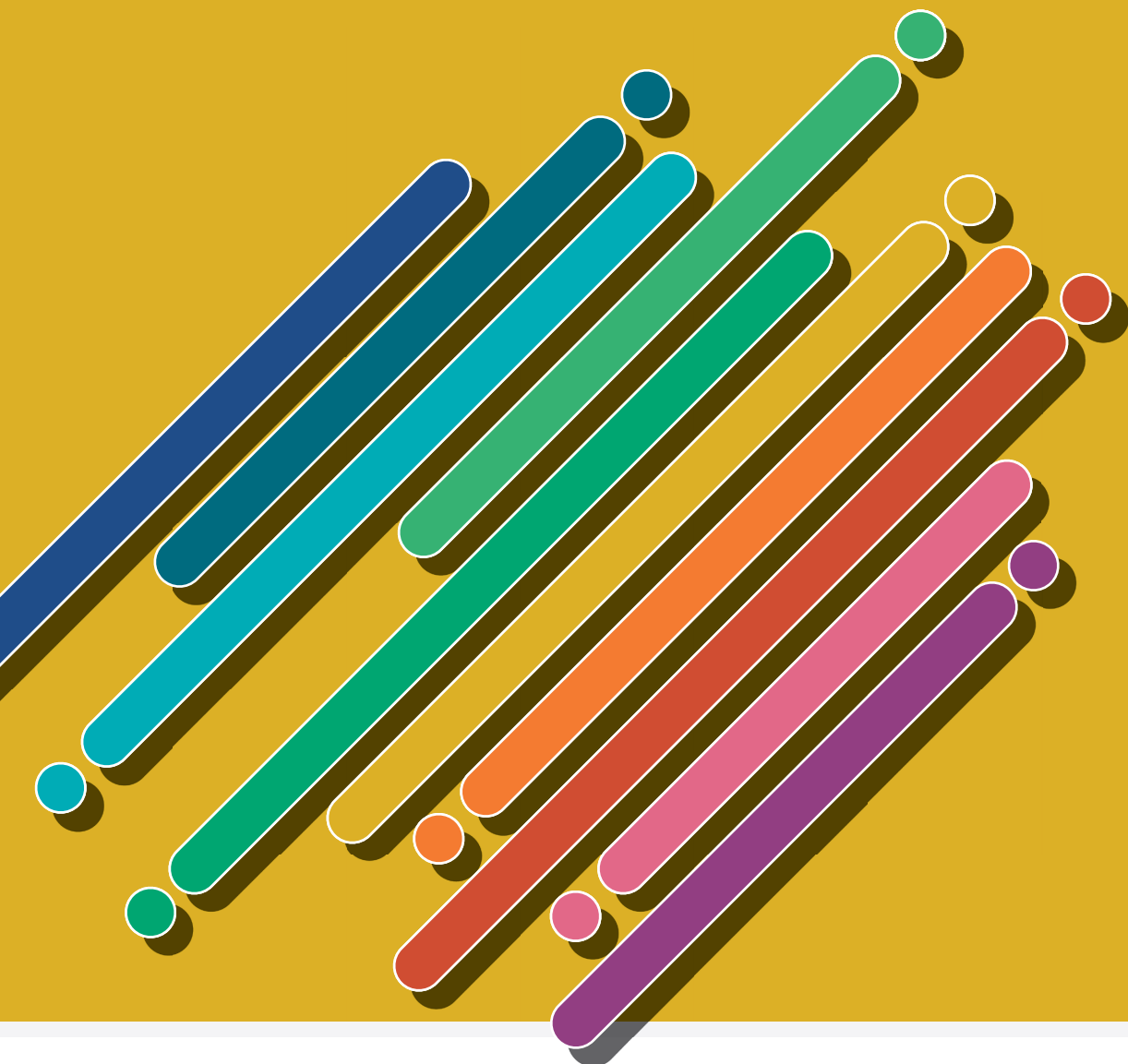
- Annual calendar of discussion of the reports of independent institutions and regulatory agencies: a legal deadline for receipt of the report; a tentative date for Committee discussion and hearing; a tentative date for Bureau to receive the Committee report; and a tentative date of plenary discussion.
- Assessment by the Information-Analytical Department of the Secretariat: within two weeks of receipt of the report in Parliament.
- Committee discussion and hearing: within six weeks of receipt of the report of the independent institution or regulatory agency.
- Plenary session debate on the report of the independent institution or regulatory agency and the Committee report: within three weeks of decision by the Bureau.

5. On the **outcome and follow-up** to reviewing reports of independent institutions and regulatory agencies by parliament, we recommend:

- Adopting a Committee report on each report of the independent institution or regulatory agency.
- Consideration by the Parliament Bureau of a plenary debate on both reports.
- Sending the Committee report to the relevant Ministry and independent institution or regulatory agency, and request their feedback within a maximum period of two months.
- Establishing a tracking system of all reports of independent institutions and regulatory agencies received by Parliament, the Committee reports and the responses by the Ministry and independent institutions and regulatory agencies.



4 Oversight of budget execution



EXECUTIVE SUMMARY	<input type="radio"/>	<input type="checkbox"/>
INTRODUCTION	<input type="radio"/>	<input type="checkbox"/>
COMMITTEE OVERSIGHT	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF IMPLEMENTATION OF LEGISLATION	<input type="radio"/>	<input type="checkbox"/>
FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS AND REGULATORY AGENCIES	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF BUDGET EXECUTION	<input checked="" type="radio"/>	<input checked="" type="checkbox"/>
OVERSIGHT IN PLENARY SESSION	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION	<input type="radio"/>	<input type="checkbox"/>
CONCLUSION	<input type="radio"/>	<input type="checkbox"/>
ANNEXES	<input type="radio"/>	<input type="checkbox"/>

4. Oversight of budget execution

There are three main components to the budget cycle: budget development; budget approval; and budget oversight.²⁵ While budget development is to a large extent the responsibility of the executive, the top priority for any Parliament is usually the ex-ante approval of the budget and ex-post oversight of budgetary spending.

Ex-post oversight of the budget allows Parliaments to hold the executive accountable for the use of public resources and promote improvements in management. Control of the budget after it has been implemented typically involves an examination of the public-sector accounts for reliability, accuracy, completeness and conformity with applicable rules/law, and an assessment of the extent to which the budget has been used for the purposes indicated when the budget was adopted. Most Parliaments in Europe also consider the effectiveness and efficiency of public spending, i.e. whether public spending delivered value for money and achieved the intended objectives.

4.1. Legal framework

In Moldova, the CoA plays a key role in the ex-post oversight of budgetary spending. On 8 December 1994, the supreme external audit body, the CoA, was established with the aim of strengthening control over the use of public funds and public property management. Based upon Art. 133 of the Constitution of the Republic of Moldova, the CoAs exercised financial controls and external financial revisions through the procedures approved by Law No. 312-XIII of 8 December 1994, “On Court of Accounts”.

On 5 December 2008, Parliament adopted Law No. 261, under which the CoAs were 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 highlight the transition from external financial control to external public audit. This change requires the CoA to perform audits on Government reports regarding the execution of the State Budget, the National Social Insurance Fund/Budget and the Mandatory Health Insurance Fund/Budget for the expired budgetary year.

Parliament’s relationship with the CoA takes shape around the appointment of members of the CoA and the parliamentary follow-up to the reports of the CoA. The Plenary of the CoA is a collegiate body consisting of seven members, including the President and Deputy President of the CoA. The President of the CoA is appointed by Parliament for a five-year period, at the proposal of the Parliament Speaker, based on a majority vote of the elected MPs. The Deputy President of the CoA is appointed by Parliament, at the proposal of the President of the CoA out of its members. The members of the CoA are appointed by Parliament, at the proposal of the President of the CoA, for a five-year mandate

(25) <https://www.agora-parl.org/resources/aoe/parliamentary-institution/financial-accountability>

with the majority vote of the elected Members of Parliament. The mandate of CoA member may be renewed only once in succession.

The CoA submits annually by 15 March to Parliament: the financial report on the implementation of its own budget during the expired budget year; and by 15 July the Report on the Management and Use of Financial Resources and Public Property, reviewed in the Plenary Meeting of Parliament. This Report is published in the Official Gazette of the Republic of Moldova within 15 days after its submission and review in Parliament. The CoA may also submit to Parliament other reports that it believes are necessary to be submitted.

The audit reports as well as the CoA decisions are published in the Official Gazette of the Republic of Moldova within 10 days following the expiration of the appellate term; in the case of appeal they are published only after the adoption of the final court ruling. The reports of the CoA are public as soon as they are issued by the CoA, and are available on its website.²⁶

4.2. Current practices in Moldova

In Moldova, Parliament's review of the budget covers the annual State Budget, fiscal policies, the medium-term fiscal framework and medium-term priorities.²⁷ The Law on Public Finance and Budgetary and Fiscal Accountability (2014) established new deadlines for the approval of the draft State Budget by the Government of Moldova and its submission to Parliament by 15 October, as well as the deadline for its adoption by Parliament (1 December). This means

that the time to scrutinize the draft budget is now less than two months as a result of the 2014 Law, a reduction from 66 days to 47 days.

There are two main extrabudgetary funds – the National Health Insurance Fund and State Social Insurance Fund – which prepare their own annual draft budgets and are expected to meet the same deadlines as the State Budget. These funds are supposed to be reviewed by the Social Protection, Health and Family Commission.

The Government of Moldova also submits to Parliament a Medium-Term Budgetary Framework designed to forecast the next three years of expenditure. The CEBF has the primary responsibility for coordinating the review of the budget. The Standing Committees are to examine the relevant sections of the draft State Budget and report to the CEBF by an agreed-upon date. Other reports in the framework of the UNDP project have analysed in detail the role of the CBEF in the budget review and approval process.²⁸ CSOs may also be invited to give their opinion on the budget, although this does not appear to occur frequently.

In analysing the parliamentary capacity for financial analysis, there exists no independent Parliamentary Budget Office which has the technical capacity to interpret budget and economic data, and provide parliamentarians with objective, prompt and independent analysis. There is a separate unit of seven staff members for the CEBF, however, which conducts research on the budget. The staff have the power to call for information and documents from government departments. However, it is doubtful whether Parliament has sufficient human capacity to

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

(27) Pogacar Bojan, Assessment of the Annual Draft Budget Law and the Budget Review and Approval Process in the Parliament Procedure, Report in the framework of the UNDP parliamentary project, Chisinau, December 2016, 25 p.

(28) Pogacar Bojan, Draft Concept Note – role of the budget office in parliament, Report in the framework of the UNDP parliamentary project, December 2016, 9 p.; Pogacar Bojan, Concept Note – Enhance role of the parliament in the budget review process, Report in the framework of the UNDP parliamentary project, December 2016, 9 p.

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. there is a lack of electronic access to the Treasury.²⁹

The 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 of both in 1994, as well as with Supreme Audit Institutions (SAI) from other countries under bilateral cooperation agreements.

Within the Parliament of Moldova, there is an ongoing interest on the part of the CEBF and other committees to examine CoA reports. The CEBF's discussion on the CoA's Annual Report on the Management and Use of Public Financial Resources and Public Property is preceded by a review by a Committee consultant, who prepares a report for the Chair of the CBEF, after which the Chair sets a date for a hearing. The President of the CoA is invited to attend the hearing and respond to questions. There is then a motion passed by the Committee to endorse the report, call for the Government to implement the report's recommendations and move for the President of the CoA to speak in a plenary of Parliament. It is general practice, though not regulated by legislation, that the plenary of Parliament completes the review of the CoA Annual Report within three months, and usually before the review of the Draft Annual Budget

Law. This review results in the adoption of a Decision of Parliament.

While Parliament does conduct a plenary debate on the CoA Annual Report, there is no regular and established practice of in-depth hearings on chapters of the CoA Annual Report with the relevant ministries or state institutions. The analysis and review process for the annual report is hampered by the fact that CEBF and other committees do not always call ministers or senior civil servants when the spending and practices of their respective ministries are being questioned. The lack of an established process whereby responsible officials are present to account for shortcomings contained in the CoA reports during plenary discussions is a significant shortcoming, and represents a missing link in Parliament–CoA cooperation. Following his 2016 missions to Moldova, the Canadian budget expert Geoff Dubrow concluded: "While CoA representatives are available to explain the observations and findings during parliamentary plenary or in Committee hearings, parliamentarians do not realize the opportunity to scrutinize the Government by calling on officials to clarify and provide an update on actions taken to address CoA recommendations."³⁰

Moreover, several months pass between the plenary debate on the Government's report on the execution of the budget and the CoAs report, though both reports deal with the management of public money. Contrary to this, the debate on the reports on the execution of the health insurance budget and the social insurance budget are synchronized with the presentation of the CoAs report.

(29) De Vrieze, Franklin, *Anti-Corruption Self-Assessment of the Parliament of Moldova, Report in the framework of the UNDP parliamentary project*, September 2016, p. 45. http://www.md.undp.org/content/moldova/en/home/library/effective_governance/anti-corruption-self-assessment-report-for-the-parliament-of-the.html

30) Dubrow, Geoff, *Report on the relations between the Court of Account and Parliament*, UNDP Moldova, Chisinau, December 2016, p.18.

4.3. European practices

This section on practices in other European countries will consider the proceedings in three parliaments, Lithuania, the UK and Poland, followed by a more general assessment cutting across all EU Member States.

In Lithuania, the State Budget execution is considered at the sitting of the Seimas at least once every six months. The Government presents for consideration the State Budget execution statements and the Auditor General presents to the Speaker of the Seimas a report on the them. The State Budget execution statements and the conclusions of the Auditor General regarding them, together with a draft of the State Budget for the forthcoming year, must be considered at a sitting of the Seimas by November 20. A report of the Committee on the Budget and Finance as well as the conclusions of other committees are heard at the Seimas sitting. Upon the completion of discussions, a resolution of the Seimas concerning the State Budget execution statements is adopted.

The Seimas has adopted the following practices on audit and performance reports. The Committee on Audit annually reviews 50 financial and performance audits; based upon this review, the Committee takes approximately 20 Committee decisions annually, urging the Government and state institutions to implement the recommendations of the audit institution. The Committee also introduces resolutions in plenary, further strengthening the implementation of recommendations of State Audit Institutions.

In the UK, the Public Accounts Committee of the House of Commons works on the basis of a three-month planning cycle, including the review of reports of individual reports of the Auditor General. Three times per year, the PAC receives from the Auditor General a list of re-

ports and memorandums that are expected to become available in upcoming months. In this way the Committee can take these into account in its planning. The PAC questions responsible Ministers, Departments and Agencies on the findings of the Auditor General, who gives preliminary briefings to the Committee on which persons to invite and what questions to ask.

In Poland, the Committee drafts a resolution which is addressed to the Government or to specific central administrative bodies, instructing them to implement the recommendations of the CoA. The Government and state agencies then have 30 days to respond. The response is discussed in Committee, and can be accepted or rejected.

The European Parliament's Directorate for Internal Policies has conducted a study on parliamentary control of budget implementation in EU Member States. The study has findings which are relevant for this report.³¹

- All national Parliaments in the EU carry out some form of ex-post examination and/or approval of the implementation of the budget. In an increasing number of national Parliaments, this task is carried out by a separate body from the Committee responsible for adoption of the budget.³² A number of these budgetary control committees in na-

(31) European Parliament Directorate for Internal Policies, Parliamentary Control of Budget Implementation, Brussels, 2012, 50 p. [http://www.europarl.europa.eu/RegData/etudes/etudes/JOIN/2012/490661/IPOL-JOIN_ET\(2012\)490661_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/JOIN/2012/490661/IPOL-JOIN_ET(2012)490661_EN.pdf)

(32) In seven national Parliaments (Bulgaria, France, Hungary, Italy, Portugal, Romania, Slovakia), the adoption, control of implementation, and ex-post control is carried out by the same body, and in a further two (Belgium and Germany) ex-post control is carried out in a subcommittee of the Committee responsible for the adoption of the annual budget. In the vast majority of national Parliaments, however, the bodies responsible for control of the budget before and during implementation are now also separate from the bodies responsible for control carried out after implementation. In the Czech Republic, Lithuania and Poland, ex-post budgetary oversight takes places both in the budget Committee and in the Committee equivalent to the Budget Control Committee.

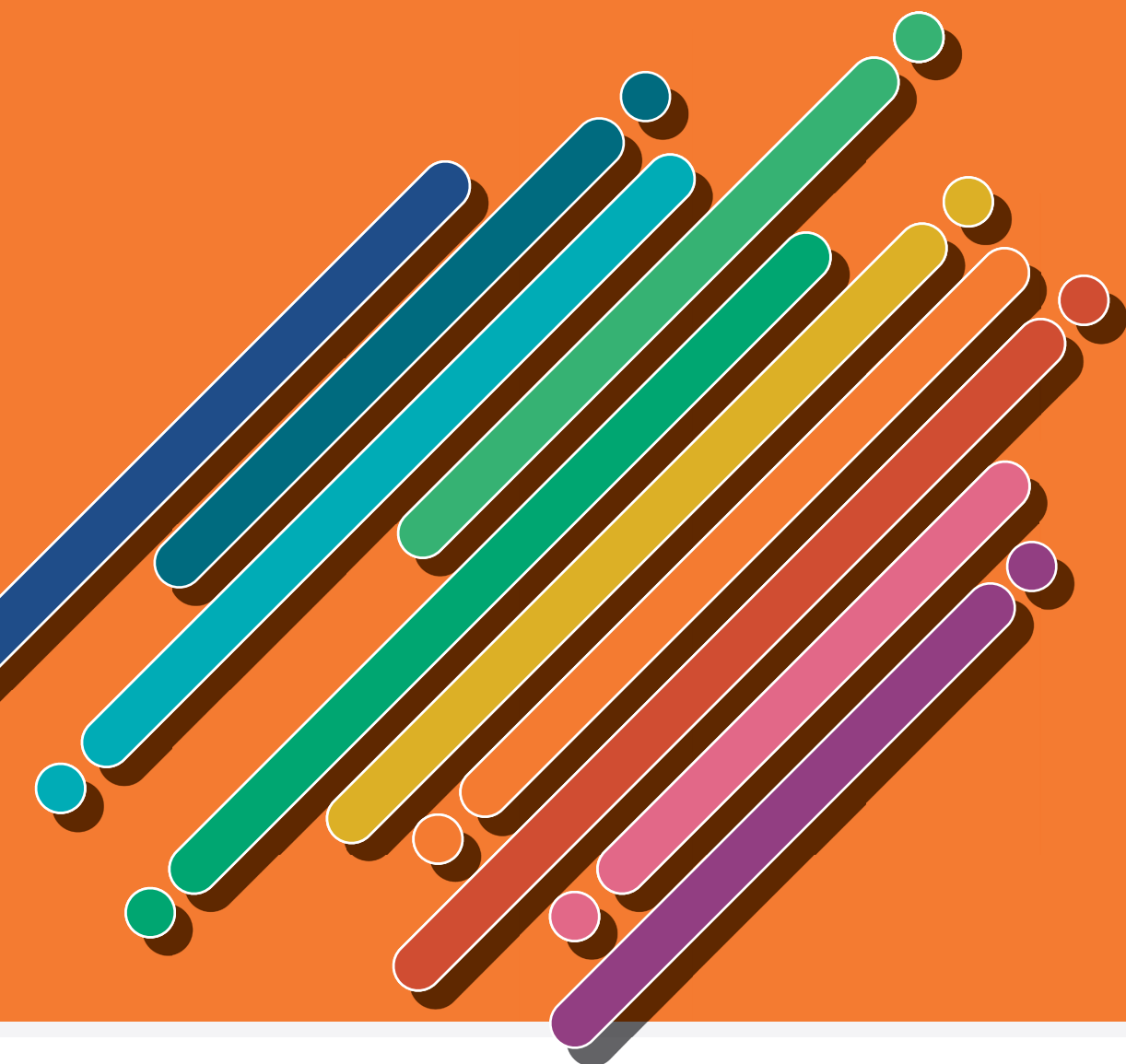
tional Parliaments also have the responsibility for the preparation of legislation in the field of public financial management and control, and the fight against fraud.

- The main body responsible for helping parliaments to examine the national accounts and budget implementation is the Supreme Audit Institution (SAI) in the EU Member State. Relations between the SAI and the various Parliaments vary widely. While it is more common for the SAIs to decide which audits they will carry out, Parliaments in a number of EU Member States have the right to require the SAI to carry out specific audits. Often, SAI representatives are present in Parliament during discussions of audit report to present the results of its controls, to give additional information or answer questions from the Committee members.
- Regarding the presentation of audit reports to parliamentary committees, while some Parliaments follow the same procedure as the European Parliament in channelling all reports through the Committee responsible for audit and ex-post examination of budget implementation, in other Parliaments the reports are presented to the Committee responsible for the policy area under consideration.
- Regarding relations with the executive, most Parliaments have the right to request further written or oral information during their examination of the implementation of the budget. In the majority of Member States, either ministers or officials attend Committee meetings for examination. In some, however, both attend.
- Parliamentary decisions concerning ex-post control of budget implementation tend not to have legal consequences, though they could have, and in certain cases have had, serious political consequences. They may also influence the distribution of funds in future budgets.
- Some EU Member States have mechanisms in place to continuously follow up governmental responses and draw attention to the Plenary if an audit matter has not been satisfactorily followed up by a Minister.
- In almost all EU Member States Committee reports are publicly available. Committee meetings and hearings are often open to the public and media, but in the majority of Member States the Committees can decide to hold meetings in camera when sensitive issues are discussed, e.g. when addressing issues such as national defence, or protecting personal data. In a few countries, Committee meetings and hearing can be followed live via web stream.

4.4. Recommendations

- It is recommended that the CoA's report on the implementation of the budget and the Government's budget implementation report are examined simultaneously in Parliament, rather than with a gap of several months between, as is currently the case.
- It is recommended to conduct in Committee in-depth hearings on the findings and recommendations of the CoA Annual Report with the relevant ministries, state institutions and other public authorities, with a view to reinforcing and ensuring implementation of the CoA recommendations.
- It is recommended that CoA reports are discussed in a parliamentary Committee rather than a subcommittee, which would have fewer members but would have to rely on the same staff resources as the Committee on Budget, Finance and Economy. The discussion of the CoA reports should happen either in the existing CBFE or in a new Committee on Audit, as is the case in Lithuania, for instance.
- It is recommended to strengthen the practice of Standing Committees conducting hearings with the Ministry or public authorities within their remit on the findings and recommendations of the CoA's singular audit reports on specific institutions.
- It is suggested that the CoA Annual Report on budget implementation will include a more extensive, more detailed chapter on the state of the implementation of its recommendations in the previous annual report, as well as in other audit reports on individual institutions and agencies.

5 Oversight in plenary session



EXECUTIVE SUMMARY



INTRODUCTION



COMMITTEE OVERSIGHT



OVERSIGHT OF IMPLEMENTATION OF LEGISLATION



FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS
AND REGULATORY AGENCIES



OVERSIGHT OF BUDGET EXECUTION



OVERSIGHT IN PLENARY SESSION



OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION



CONCLUSION



ANNEXES



5. Oversight in plenary session

Questioning the executive is a fundamental tool of parliamentary oversight. One can distinguish between written questions, oral questions and interpellations.

Written questions are in practice direct exchanges between an MP and a Minister on the public record. Written questions enable an MP to gather information from Government that is usually not readily available elsewhere, and which may be used, for example, to build a powerful, informed case for challenging or changing Government policy. By contrast, regular oral questioning of ministers in the plenary session provides the opportunity for Parliament to demonstrate relevance, elicit answers from ministers and keep up with the news cycle in ways that demonstrates its relevance to the population. Using oral questions, MPs can make political points and benefit from an immediate response. Speakers have a key role to play in the way these oral questions are managed in the plenary.

As highlighted in the second Global Parliamentary Report, the possibility for MPs to address questions to the Government, and the formal requirement in many countries for Government to reply within a certain deadline, is one of the features that set parliamentary oversight apart from scrutiny by other bodies. While Government may feel compelled by political pressure to respond to questions raised in the media, there is no formal obligation for it to do so. The situation is different in Parliament, where Government can be sanctioned if it does not meet the legal requirement to respond.³³

Motions and debates provide valuable time for MPs to speak in public and a good opportunity to conduct detailed oversight. Motions are distinguished from oversight inquiries in Committee, for example, by their more “urgent” tone.³⁴ The Global Parliamentary Report highlighted that while motions of no-confidence may be unlikely to pass when the Government commands the support of the parliamentary majority, MPs can still be effective in drawing public attention to issues of major concern.

5.1. Legal framework

The RoP of Parliament provide for several instruments for carrying out the oversight in plenary session:

- a. Simple motions (Art. 112–Art. 115)
- b. Motion of no-confidence (Art. 116–Art. 119)
- c. Questions from MPs to the Government and other public authorities (Art. 122–Art. 124)
- d. Interpellations (Art. 125)
- e. Hearings in Parliament’s Plenary (Art. 126)
- f. The Annual Activity Report of the Government (Art. 127)

The **questions** addressed to the members of the Government or to the leaders of other authorities of the public administration concern the request by the MPs for information referring to an unknown fact, the request to confirm or refute a fact, to clarify certain facts, to establish the actions to be taken in face of a specific problem, etc.

Based on the RoP of Parliament, the scope of MPs’ requests is limited, and it is not possible to ask the questions addressed to the President of the Republic of Moldova; addressed to the

(33) Global Parliamentary Report on oversight, p. 58.

(34) Global Parliamentary Report on oversight, p. 57.

representatives of the judiciary; addressed to the local public administration authorities; on issues of personal interest; which seek exclusively to obtain legal advice; which lead to interference in justice and prosecution; or on the activity of persons who are not members of the Government or leaders of other public administration authorities.

The time for parliamentary questions is the last working hour on Thursday, except for the last Thursday of the month. Each MP may address questions to the members of the Government or to other public administration authorities. The MP may, at the same plenary session, address no more than two questions. In the form of the question, the MP will specify what response he/she wishes to receive at the plenary: written or oral.

If an oral answer is requested, it will be given at the next plenary session, during the Government Hour. If a written response is requested, it will be submitted within 15 days. If the question is addressed to an official present in the plenary hall, he/she will respond immediately or state that he/she will respond at the next plenary meeting within the Government Hour or answer in writing within 15 days. If the person requesting an answer is not in the plenary sitting room, a written answer is to be provided.

The RoP of Parliament also regulates some of the procedural issues relating to time dedicated to the questions. This will not exceed two minutes, and the time for each oral response will not exceed three minutes. If the person who has asked the question is not satisfied with the answer, a minute is given for the reply. At the same time, if the time for questions and answers exceeds one hour, the Chair of the hearing will postpone some of the questions and answers for the next meeting.

Interpellation is a mechanism by which the MPs directly address the Government and ask for explanations on aspects of Government policy that relate to its internal or external activity. The interpellation may be addressed by a MP to the Government as a whole and to any of its members. As far as the submission and examination of the interpellations are concerned, these are filed in written form, and with a clarification on the type of response requested. The interpellations are read aloud and given to the Chair of the plenary sitting, which then sends them to the Prime Minister. When a written response to an interpellation has been required, the Government gives the response within 15 days at the latest.

Motions are legislative Acts of Parliament, whereby it expresses its position on a particular issue on which it has deliberated. The legislation provides two categories of motions: a simple motion and no-confidence motion.

The **simple motion** is an Act of Parliament through which it expresses its position regarding a certain problem of internal or external politics or on an issue that has been reflected in an interpellation. By simple motion, Parliament draws attention to deviations in the Government policy in a specific area, or an inconsistency with the position of Parliament. After the adoption of simple motions by Parliament and their publication in the Official Gazette of the Republic of Moldova, the motions are mandatory for the Government or other concerned authorities, under the threat of adopting a possible censure/no-confidence motion.

Under procedural terms, a simple motion may be initiated by at least 15 MPs. The motion is filed with the Chair of the sitting, in the plenary sitting of Parliament. The Chair of the sitting informs Parliament about it, and it establishes the date for examining the motion and orders its

immediate submission to the Government and its distribution to the MPs. The debate on the simple motion will take place on the date fixed by the Standing Bureau within 14 working days of its submission, accompanied by the opinion of the Standing Committee on the matter, which will be drafted within seven working days from the date of submission of the motion. The debate on the simple motion begins with the presentation of the Government report. Simple motions are adopted by the vote of majority of the MPs present.

The motion of no-confidence expresses the withdrawal of the vote of confidence given to the Government at its investiture. The debate and adoption of the censure motion is based on the Government's political accountability before Parliament, resulting in the Government's loss of confidence of its parliamentary majority and hence of political power. The political responsibility of the Government refers both to its overall activity and to its individual members, thus ensuring governmental solidarity.

The censure motion on the activity of the Government may be initiated by at least one quarter of the total number of elected MPs. The censure motion shall be drafted and filed according to the procedure established for the simple motion. The motion shall be filed with the Chair of the session, in the plenary sitting of Parliament. The Chair of the session shall inform Parliament about it, and it shall establish the date for examining the motion and order its immediate submission to the Government and its distribution to MPs.

The censure motion regarding the activity of the Government shall be debated on the first day of the plenary session of the week following the date of its submission. The censure motion shall be adopted with the majority vote of the elected MPs. In the event that the censure mo-

tion regarding the activity of the Government is rejected, the MPs which have signed it shall not be entitled to initiate a new motion within the same session, based on the same grounds. When the censure motion has been adopted, the Prime Minister will present to the President of the Republic of Moldova within three days the dismissal of the Government.

5.2. Current practices in Moldova

In the Parliament of Moldova, individual MPs use their right of parliamentary oversight through various tools, including written questions, oral questions and interpellations. Other instruments, such as the simple motion and the motion of no-confidence, are jointly exercised by several MPs or parliamentary groups.

The questions and interpellations are the most widespread forms of parliamentary scrutiny over the Government and public administration, often though not exclusively being used by the MPs from the parliamentary opposition. The Secretariat's Documentation Department ensures that the MPs' written questions are transmitted to the government promptly, and that the responses are forwarded to the MPs concerned. The instrument of MPs questions and interpellations are not always applied in the most effective way, as current practice indicates that the Government sometimes provides formal or incomplete answers. It has been observed that ministers concerned do not always attend parliamentary sessions to respond to answer MPs' questions, being represented by the deputy ministers or other representatives.

According to the current practice in Moldova, the Prime Minister does not come to parliament to answer MPs' questions, except when presenting the Government's activity report. Since his appointment to office (20 January 2016), the

current Prime Minister has come to Parliament only once, in June 2017, to present the government's work plan, effectively leaving a gap of 18 months. The absence of the Prime Minister of Moldova from Parliament's plenary session is unique in Europe.

During meetings with the UNDP international parliamentary consultant in October 2017, representatives of all political factions and groups expressed an interest in a more regular question time with the Prime Minister of Moldova, in line with practices in other European countries.

On 2 October 2017, Mr. Marian Lupu, Chair of the parliamentary group of Democratic Party, endorsed the idea for a Prime Minister's Question Time on a monthly basis.

During debates in the Moldova Parliament plenary session, questions are sometimes confused with interpellations, and MPs addressing the Government refer to their questions as interpellations. The difference between them lies in the fact that interpellations are a way of parliamentary oversight that can lead to Government accountability. In this way, the authors of the interpellation might request from Parliament the examining of the response to an interpellation within the plenary sitting, by filing a simple motion to be voted upon.

When a motion is submitted for debate, at the indication of the President of Parliament, the Legal Division carries out the legal expertise of the motions. The RoP of Parliament make no explicit reference to the task for the Legal Department to examine whether the proposed motions contain all legal elements needed to be submitted and examined. As the motions are applied by the opposition as an instrument of pressure on the Government, they are almost automatically rejected by the parliamentary majority. There is no practice of asking the Standing Committees in whose remit the subject matter of the motion lies to give their views on the subject matter.

Reviewing the statistical data on parliamentary oversight in plenary session for 2015 and 2016 (see annex 2 to this report), the following trends can be identified. The party who submitted most parliamentary questions is PSRM, followed by the Party of Communists of Moldova (PCRM) and PLDM. The Government provided a response to most questions: 80/85 in 2016 and 98/106 in 2015. Most interpellation requests were submitted by PLDM, followed by the Democratic Party of Moldova (PDM), PCRM and PSRM. All interpellations received a Government reply: 17 in 2016 and 15 in 2015. In 2016 a total of 12 motions were debated in parliament. There were nine simple motions, proposed by PSRM, and three motions by more than one faction (one simple motion and two motions of no-confidence in the Government). All 12 motions were rejected by a majority of MPs.

The parliamentary practice in Moldova has seen the adoption of two censure (no-confidence) motions. In 1999, the parliament adopted a no-confidence motion in the Government led by Mr. Ion Sturza.³⁵ In 2015, Parliament adopted a no-confidence motion in the Government led by Mr. Valeriu Strelet.³⁶

5.3. European practices

There is a variety of practices in national parliaments in Europe and common trends in relation to oversight of the Government in the plenary session of Parliament.³⁷

(35) <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=309433>

(36) <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=361725>

(37) Information from the ECPRD request 2173 on Question time and interpellations (2013); and ECPRD request 3154 on Question Time in Parliament (2016).

5.3.1. Frequency of question time

Except for two countries (Slovenia and Serbia) who organize the question time once a month (usually around three hours), the other European countries organize the question time on weekly basis at a minimum. The weekly question time to the Government ranges from one hour (in Slovakia, Estonia and Latvia) to 3.5 hours (in the Czech Republic). In Lithuania, the question time takes place twice a week, one hour on Thursday and 30 minutes on Tuesday, as is the case in France. In Italy there is a question time in the Chamber of Deputies three times a week: Tuesday morning – ordinary questions; Wednesday afternoon – question time for urgent questions, including Prime Minister’s question time; Friday morning – interpellations. In the UK House of Commons, there is a question time four times a week, Monday to Thursday, the first hour of the sitting, and ministers answer on a five-weekly rotating basis with the Prime Minister’s Questions on Wednesday.

5.3.2. Number of questions at question time

In Austria, there is a maximum of four questions per member per session. In Slovenia and Romania, there is a maximum of two questions per member per session. In Slovakia and Estonia, there is a maximum of one question per MP per session. In Croatia, the number of questions is allocated per political group in proportion to its strength in Parliament.

5.3.3. Participation by Prime Minister in question time

In many parliaments in Europe, the participation by the Prime Minister in the question time is a political highlight; this is when the Govern-

ment makes important announcements and MPs from ruling parties and opposition parties ask questions about important current or urgent issues.

Except for two countries (Slovenia and Norway) who organize the Prime Minister’s Question Time once a month, the other European countries organize the question time on weekly basis.

The length of Prime Minister’s Question Time differs considerably, from 30 minutes in the UK to one and a half hours in the Czech Republic. In Belgium, when the Prime Minister and Ministers are called to Parliament, they are expected to attend in person. Replacement by another Minister or deputy Minister happens very rarely. However, no Head of Department or Secretary-General of a Ministry can answer to MPs on his own.

In some countries in Europe, other persons who are not members of the Government can be asked to answer questions in a plenary session during the question time. In Slovakia, the members of the Government, the Attorney General and the Chair of the Supreme Audit Office need to be present at the question time. The Lithuania RoP stipulate that the Auditor General and heads of other state institutions appointed by the parliament or whose appointment requires parliamentary approval as well as other heads of state institutions except judges must, every Tuesday in the course of the Government half hour, answer written questions submitted in advance by the MPs.

5.3.4. Selection of questions

There are various ways to select the questions put to the Minister or Prime Minister and to determine their sequencing. In Croatia, the Czech

Republic and Slovakia, a draw determines the order for posing questions. In the Netherlands and Austria, the Speaker decides who can ask a question (taking into account the urgency of the matter, the topicality of the matter and possible other parliamentary actions on the same matter). In Estonia, the Parliament Board selects the questions one hour prior to the session, keeping in mind to include all political parties, and determines the order of the questions: first questions to the Prime Minister; chairs of factions can ask questions first; more actual (topical) questions come first. In Latvia, the Parliament Praesidium determines which questions will be scheduled for the plenary, and announces the list of questions and written answers (which need to be submitted six days in advance). In Slovenia, the first four questions are designated for the Prime Minister (if related to the Government programme and general policy issues). The sequencing is that the first two questions are asked by MPs of the opposition, followed by one MP of the ruling party or parties.

5.3.5. Notification of the Government

The extent to which the Government is informed in advance of the questions or its content reveals interestingly different practices across national Parliaments in Europe. For instance, in France only the names of the authors of questions are transmitted to the Government one hour prior to the parliamentary sessions, without revealing the content of the question itself. In the Netherlands only the name of the author and the general thematic area of the question is transmitted to the Government, not the question itself. In Slovenia, Austria and Latvia, the name of author and the full text of the question is sent to the Government one day in advance and published online.

5.3.6. Length of questions, answers and follow-up questions

The length of questions varies, from one minute in Estonia and Austria to three minutes in Serbia and Slovenia. The length of the Government answer to the questions varies between two minutes in France, Estonia and Austria, and five minutes in Serbia and the Czech Republic.

In certain Parliaments, rules of procedure also allow MPs to follow their oral question with another, more detailed question, normally termed the “supplementary” or follow-up question, or to reply to the answer given by the Government. For instance, in Serbia the MPs can ask two follow-up questions. In other countries the follow-up questions are counted by the time they take. In the Czech Republic there is one minute of follow-up questions, in Slovenia it is two minutes and in the Italian Senate, there is a reply of five minutes allowed. In Austria and Latvia, the RoP stipulate that the follow-up questions can be asked by the MP who initiated question as well as by MPs of other factions.

5.3.7. Written questions

While written questions are one of the most widespread forms of parliamentary scrutiny, the common challenge associated with written questions is timeliness. While oral questions require and receive an immediate (though not always satisfactory) response, written questions are often answered after some delay. This is even though most Parliaments set a deadline for governments to respond to written questions.

When Government ignores such deadlines, it undermines Parliament’s authority and effectiveness in conducting oversight. As a result, some Parliaments have reformed their rules of procedure on delayed responses to written

questions. For example, in Canada the Minister's response or lack thereof may be referred to a Standing Committee, and in the Netherlands the response may be scheduled as a priority question for question hour. Members can also give notice to speak on the subject matter of the question at a later time (e.g. time reserved at the end of a sitting day). In several Parliaments, a debate is scheduled when members are not satisfied with a Minister's response to a written question (or its timeliness). This procedure is commonly known as interpellation (Global Parliamentary Report, p. 60.)

5.3.8. Interpellation

Often there is confusion about the difference between a parliamentary question and an interpellation. In most Parliaments in Europe, an interpellation is understood as a substantiated policy question, the answer to which can be subjected to a vote by the entire Parliament, sometimes leading to a vote of confidence in the Government. It is often a qualified question related to the fulfilment of the Government's plan, implementation of legislation or resolutions of the Parliament.

There are different practices on who can initiate an interpellation, either a fixed number of MPs or a portion of the total membership of Parliament. In Lithuania, an interpellation request needs to be signed by at least one fifth of Members, while in Slovenia, an interpellation request needs the support of 10 MPs. Who can be subject to interpellation also slightly differs. In most national Parliaments in Europe, the Prime Minister and ministers of Government can be subject to an interpellation. However, in Slovakia, the Prime Minister, Minister and heads of other central state administrative bodies can be subject to an interpellation.

The procedure of the interpellation debate has some specific characteristics in Lithuania:

- Introduction by person who introduced the interpellation.
- Reply by person who received the interpellation.
- Answers to questions by other members.
- Discussion with MPs who approve and who disapprove of the answer to the interpellation question.
- Concluding remark of the person who received the interpellation.
- Concluding remark by the person who introduced the interpellation.
- Formation of editorial Committee to draw up the draft resolution concerning the interpellation.
- Draft resolution to be presented at the next sitting day, including either approval or disapproval of the reply by the respective Minister.
- In case of disapproval of the reply and if the draft resolution is adopted, the respective person must resign.
- If the Prime Minister resigns, the entire Government resigns (through this mechanism, an individual Minister can be dismissed).

For Slovakia, the following issues are worth mentioning:

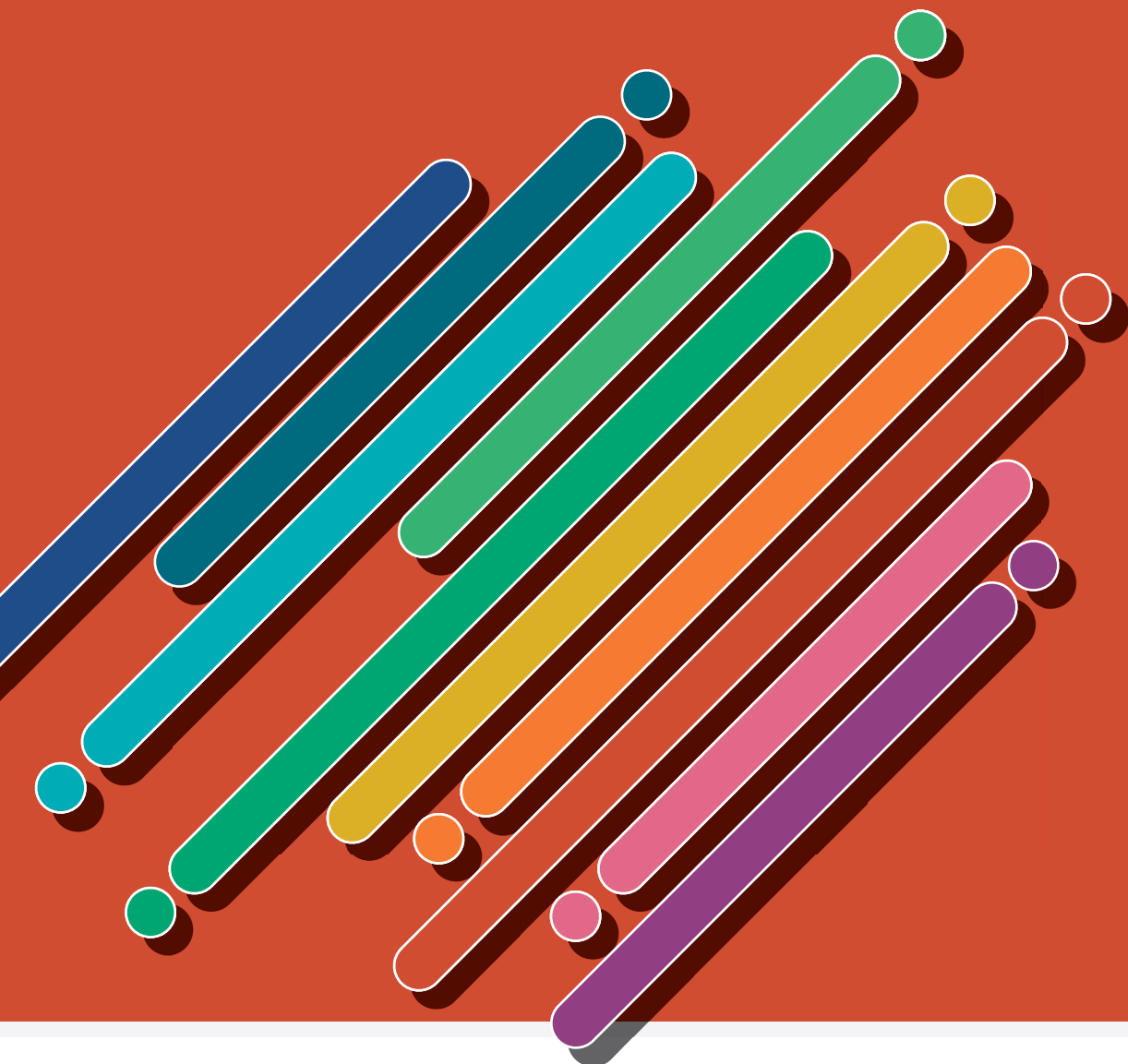
- Once interpellation question is initiated: constitutional right to answer within 30 days; for urgent matter, within 15 days.

- If the MP who initiated the interpellation is not satisfied with the reply, Parliament shall express an opinion on the response to the interpellation by means of a separate resolution.
 - Possibility to tie the vote on the reply to the interpellation with a vote of confidence in the Government. The vote of confidence is a tool for the Government if the reactions of MPs during the debate signalize a loss of confidence; hence, only the Government may tie the vote on the reply with a vote of confidence.
 - At time of interpellation, all members of the Government shall be present.
 - A fifth of members can initiate a motion to pass a vote of no-confidence. Half of all members need to vote in favour for the motion to pass.
- ▶ random draw from the questions previously selected
 - ▶ sequencing determined by the Speaker
 - ▶ sequencing determined by the Speaker and alternating between political groups and factions
- Publish on Parliament's website the Questions to the Prime Minister and Answers, with a search function on the topic, the MP submitting the question, the date of submission of the question and the date of answer.
 - Publish on Parliament's website the Written Questions, Oral Questions and Answers, with a search function on the topic, the MP submitting the question, the Minister to whom the question is addressed, the date of submission of the question, and the date of receiving the answer.
 - Publish on Parliament's website the interpellations and answers, with a search function on the topic, the MP submitting the interpellation request, Minister to whom the interpellation is addressed, the date of submission of the interpellation request and the date of interpellation.
 - Include in the RoP of Parliament that the Legal Department examines whether the proposed motions contain all legal elements needed to be submitted and examined.
 - Include in the RoP of parliament that Standing Committees in whose remit the subject matter of the motion resorts are asked to give their views on the subject matter.
 - Ensure that Committee staff compile relevant information for the Committee on the subject matter of the motion, prior to Committee discussion on the matter.

5.4. Recommendations

- Organize Prime Minister Question Time in plenary session of Parliament once per month, on a fixed day and for a minimum of 10 times per calendar year, for a period of 30 to 45 minutes.
- Determine the process of selecting the questions for Prime Minister's Question Time. Options are:
 - ▶ determined by the Speaker
 - ▶ determined by the Bureau
 - ▶ determined by the Speaker considering the strength of political groups and factions
- Determine the sequencing of the questions for the Prime Minister Question Time. Options are:

6 Oversight of gender equality policies and legislation



EXECUTIVE SUMMARY	<input type="radio"/>	<input type="checkbox"/>
INTRODUCTION	<input type="radio"/>	<input type="checkbox"/>
COMMITTEE OVERSIGHT	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF IMPLEMENTATION OF LEGISLATION	<input type="radio"/>	<input type="checkbox"/>
FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS AND REGULATORY AGENCIES	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF BUDGET EXECUTION	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT IN PLENARY SESSION	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION	<input checked="" type="radio"/>	<input checked="" type="checkbox"/>
CONCLUSION	<input type="radio"/>	<input type="checkbox"/>
ANNEXES	<input type="radio"/>	<input type="checkbox"/>

6. Oversight of gender equality policies and legislation

Parliaments are key stakeholders in the promotion and achievement of gender equality. Parliamentary oversight processes provide an opportunity to ensure that governments maintain commitments to gender equality, such as obligations under CEDAW and the Sustainable Development Goals.

While female parliamentarians have often assumed responsibility for this oversight, many Parliaments are taking a more holistic approach by establishing dedicated mechanisms and systematic processes across all policy areas to mainstream the advancement of gender equality. Mainstreaming gender equality in the work of Parliament contributes to effective implementation and oversight of legislation and policies that address equal opportunities for women and men.

The task for oversight of gender equality policies and legislation includes investigating the willingness and capacity of parliaments to keep governments accountable on the goal of gender equality and ensure parliamentary oversight is gender-sensitive, as well as the opportunities available to both women and men parliamentarians to engage in oversight.

Among parliamentary development practitioners, the Interparliamentary Union (IPU) has played a key role in advocacy for gender-sensitive Parliaments.³⁸ The International Knowledge Network of Women in Politics, which includes

(38) IPU, *Gender-sensitive parliaments*, Geneva, 2011, 20 p.; <http://archive.ipu.org/pdf/publications/gsp11ex-e.pdf>; IPU, *Plan of Action for Gender-sensitive parliaments*, 2012, 44 p.; <http://archive.ipu.org/pdf/publications/action-gender-e.pdf>

UNDP among others, has identified best practices in other Parliaments, which can be of use for the Parliament of Moldova.³⁹

6.1. Legal framework

The Parliament of Moldova has adopted several pieces of key legislation related to gender equality, as analysed in detail in the recent Gender Audit of Parliament.⁴⁰

In 2006, the Parliament of Moldova adopted the Law of Equal Chances between Women and Men, the scope of which pertains to ensuring the exercise by women and men of their equal rights in the political, economic, social, cultural and other spheres of life, rights guaranteed by the Constitution of the Republic of Moldova,⁴¹ with a view to preventing and eliminating all forms of discrimination based on the criterion of sex. The law assigns the following entities with specific duties in the field of ensuring equality between men and women: Parliament, Government, Governmental Committee for Equality between Women and Men, Ministry of Labour, Social Protection and Family; ministries and central administrative authorities (gender units) and local public administration authorities (gender units).

The Parliament is specifically mandated to adopt a legislative framework that ensures

(39) <http://iknowpolitics.org/en/learn/knowledge-resources/discussion-summaries/summary-e-discussion-parliamentary-oversight-gender>

(40) Bulte, Sarmite D., *Report on Gender Audit of Parliament of Moldova*, Report in the framework of the UNDP Parliamentary programme, Chisinau, 2015, 90 p. http://www.md.undp.org/content/moldova/en/home/library/effective_governance/auditul-de-gen-in-cadrul-parlamentului-republicii-moldova-spre-d.html

(41) Pursuant to Article 16 (2) of the Constitution of the Republic of Moldova, which was adopted on 29 July 1994, all citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin.

equality between women and men in all spheres; monitor the implementation of the principle of equality between women and men in all directions and at all levels of state policy; and examine reports of the Government and Ombudsperson as regards the situation in this field.

In 2012, Parliament adopted the anti-discrimination law, which aims to prevent and combat discrimination and to ensure equality in rights for all the individuals in areas of politics, economics, social culture and other areas of life, regardless of race, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political view or any other criterion. Based on this law, the Council for Prevention and Combating Discrimination and Ensuring Equality has been established.

The Parliament of Moldova has adopted additional legislation that addresses discrimination and sexual harassment in the workplace, including amendments to the Labour Code (in 2010) and Criminal Code (in 2010), the law on Public Functionaries and the Status of Civil Servant.

Beyond the legislation, a number of gender equality policies have been put in place. The Government decision on the approval of the National Programme to ensure gender equality and its associated National Action Plan are important actions to foster gender equality.

6.2. Current practices in Moldova

The parliamentary Committee on Human Rights and Inter-Ethnic Relations and the Committee on Social Protection, Health and Family have a role to play in raising awareness of gender equality and ensuring gender equality is implemented in Moldova.

In addition to examining policies and strategies to promote human rights and monitoring their implementation, the mandate of the Committee on Human Rights and Ethnic Inter-Relations includes ensuring and monitoring the enforcement of equal opportunities for women and men; monitoring the legal framework on non-discrimination, the rights related to economic, social and cultural rights of the individual; legislation on women's rights and children's rights; and state policy in the area of child protection and family, creating the legal framework in this area and monitoring its implementation. If new legislation has an effect on Human Rights, the Committee issues an opinion on its effects.

However, the Committee does not systematically analyse how the particular law will specifically affect men and women. According to the author of the 2016 Gender Audit of Parliament, to date the Committee on Human Rights and Inter-Ethnic Relations has not undertaken or exercised its oversight function to hold accountable the state institutions which are responsible for the implementation of gender equality.

The main role in coordination and monitoring of all actions, programmes and initiatives, and policies related to gender equality is assigned to the Government Committee for Equality between Women and Men. This Committee was established by mandate of the Law on Ensuring Equal Chances between Women and Men. The strategy is to be implemented by the Ministry of Labour, Social Protection and Family. Consequently, the oversight of this Committee would seem to fall naturally within the mandate of the Standing Committee on Social Protection, Health and Family. However, the mandate of the Social Protection Committee is silent regarding gender equality, oversight of the Government Committee for Equality between Women and Men, Prevention of Violence and Insurance of

Gender Equality Policy Department within the Ministry, and monitoring the implementation of Law on Equal Chances.

According to the author of the Gender Audit of Parliament, the Chair of the Standing Committee confirmed that to date the Committee had neither exercised any oversight functions over the Government Committee for Equality between Women and Men nor had monitored the implementation of Law on Equal Chances. The Gender Audit of Parliament noted that the Gender Focal Points in ministries lack the capacity to undertake gender analysis, that Gender Focal Points serve in that capacity as an adjunct to other responsibilities already assigned to them in the ministries, that there is a high turnover of Gender Focal Points and that there is insufficient gender mainstreaming within ministries at all levels. The oversight role of parliament on the implementation of gender policies will thus have a broad agenda of issues to consider.

Within the Parliament of Moldova, all draft legislative Acts must be submitted for an advisory opinion to the Department of General Legal Affairs. The advisory opinion is to address conformity with: a) constitutional provisions; b) international treaties; and c) legislative procedures and requirements provided by the rules. There is no requirement for gender analysis of the legislation. To the extent that we have been able to analyse, there seems to be limited awareness and focus on the importance of gender concepts, gender equality and gender mainstreaming.

At times, the Legal Affairs Department will rely on the independent assessment of legislation by the Centre for the Analysis and Prevention of Corruption (CAPC).⁴² The Centre has developed

a methodology to analyse legislation from a human rights perspective and gender equality. However, its analysis regarding gender equality is limited to questions relating to the Law on Equal Chances between Women and Men and the Law on Anti-Discrimination, and not whether the draft legislation is gender-neutral or gender-sensitive.

The Parliament is currently not undertaking Gender Responsive Budgeting (GRB). However, a Draft Action Plan to implement GRB from 2013–2022 has been prepared through the Joint Integrated Local Development Programme of UNDP and United Nations Women. There is a lack of technical expertise and capacity of the Parliamentary Secretariat to undertake gender impact analysis, gender analysis and gender budgeting.

6.3. Recommendations on oversight of gender equality policies and legislation

The following recommendations are based upon the report on the Gender Audit of the Moldovan Parliament, as well as lessons learned from overseeing gender equality policies in other Parliaments.⁴³

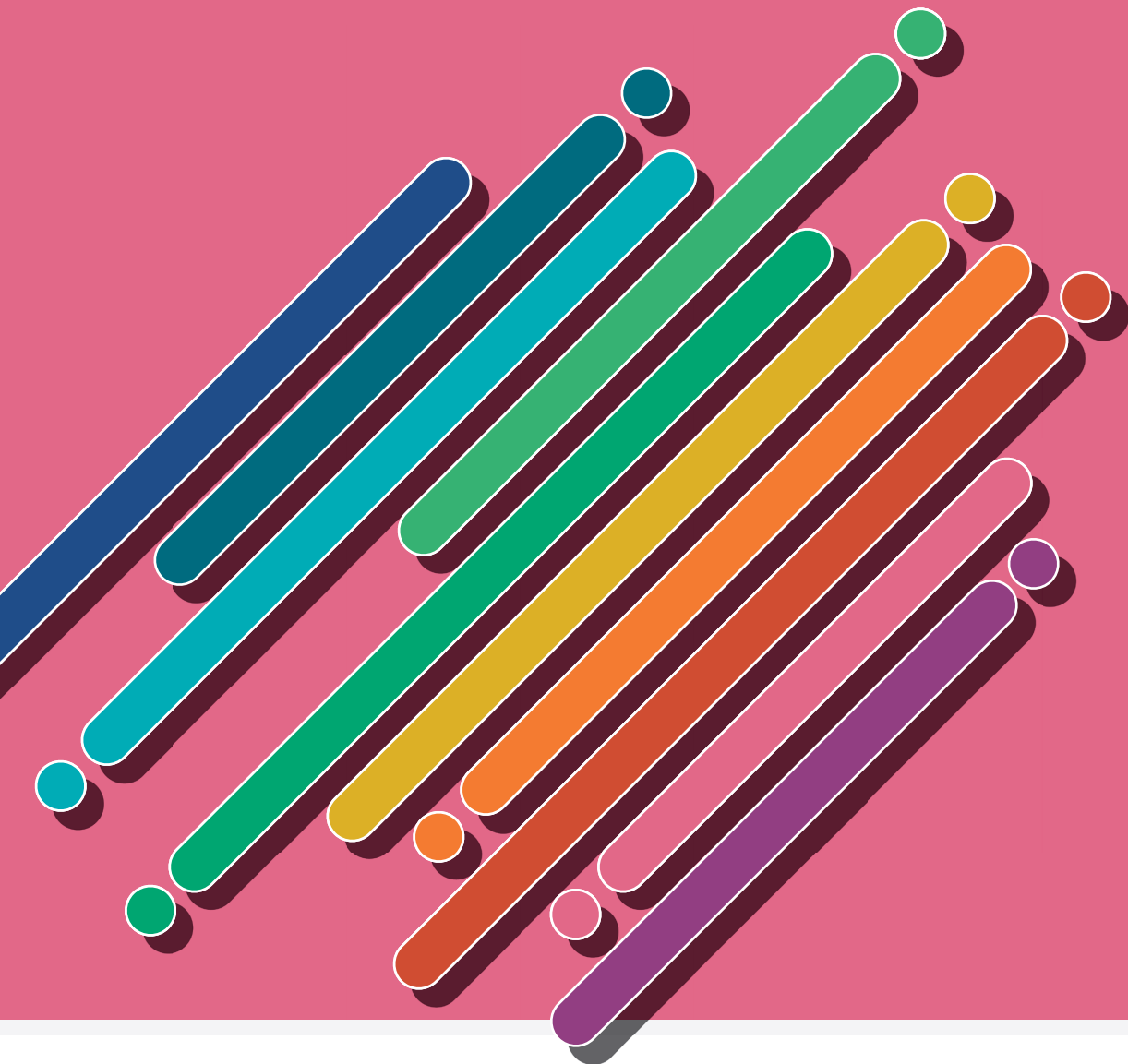
- Continue the implementation of the Gender Equality Action Plan for the Parliament, including the objectives, actions and processes for effective oversight of gender policies and legislation.
- Create mechanisms to oversee the Government's gender equality commitments.

(42) www.capc.md

(43) <http://www.endvawnow.org/en/articles/1103-legislative-parliamentary-oversight-.html>

- Engage with and oversee the national reporting process on CEDAW.
- Scrutinize the proposed annual State Budget from a gender perspective.
- Analyse budget implementation for the extent to which expenditure produced results for women and men.
- Request the CoAs to do a spot audit of various ministries on their application of gender-based analysis every three to five years; and if necessary, amend the law on the CoAs which came into effect on 1 January 2009 accordingly to include review/audit of the application of gender-based analysis within various ministries.
- Monitor the impact of gender equality/non-discrimination legislation since its adoption.
- Conduct gender impact evaluations of established key legislation and policies (gender analysis lens to ex-post evaluation of legislation).
- Engage further with women's groups and other CSOs outside Parliament to support monitoring of policies and legislation related to gender equality.
- Conduct oversight of the work of the Governmental Committee for Equality between Women and Men within the Ministry of Labour, Social Protection and Family, and develop proposals to enhance its institutional and human capacity.
- Conduct oversight of the Gender Focal Points in the ministries and support proposals for ongoing training on gender analysis, gender budgeting and gender mainstreaming.
- Design Committee Workplans and Agendas to ensure the provision of oversight of state institutions which are responsible for the implementation of gender equality, to hold the institutions accountable.
- Provide continuous training to Committee staff on gender concepts, gender analysis, scrutinizing legislation from a gender perspective and GRB.
- Provide continuous training to MPs, Committee Chairs, Vice-Chairs and Secretaries on gender concepts, gender analysis, scrutinizing legislation from a gender perspective and GRB.
- Provide training to Committees on how to exercise oversight function to hold state institutions which are responsible for implementation of gender equality to account.

7 Conclusion



EXECUTIVE SUMMARY	<input type="radio"/>	<input type="checkbox"/>
INTRODUCTION	<input type="radio"/>	<input type="checkbox"/>
COMMITTEE OVERSIGHT	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF IMPLEMENTATION OF LEGISLATION	<input type="radio"/>	<input type="checkbox"/>
FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS AND REGULATORY AGENCIES	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF BUDGET EXECUTION	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT IN PLENARY SESSION	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION	<input type="radio"/>	<input type="checkbox"/>
CONCLUSION	<input checked="" type="radio"/>	<input checked="" type="checkbox"/>
ANNEXES	<input type="radio"/>	<input type="checkbox"/>

Conclusion

Drawing up the conclusions of this report, it is useful to reiterate the objectives of oversight. There are four main reasons why Parliaments conduct oversight:

1. to ensure transparency and openness of executive activities – Parliaments shed light on the operations of Government by providing a public arena in which the policies and actions of Government are debated, scrutinized, and subjected to public opinion;
2. to hold the executive accountable – Parliamentary oversight scrutinizes whether the Government's policies are implemented and whether they are having the desired impact;
3. to provide financial accountability – Parliaments approve and scrutinize Government spending by highlighting possible waste within publicly funded services, with the aim of improving the economy, efficiency and effectiveness of Government expenditure; and
4. to uphold the rule of law – Parliament should protect the rights of citizens by monitoring policies and examining potential abuses of power and arbitrary behaviour.

The Parliament of Moldova has a wide array of oversight tools at its disposal. The most common tools include: questions to Ministers (oral and written), questions to the Prime Minister, interpellation, motions and votes of no-confidence. Other tools include mechanisms related to budgetary oversight, oversight of the implementation of legislation, follow-up to the reports by independent institutions and regulatory agencies, and the possibility to establish subcommittees, special committees and committees of inquiry.

Building effective parliamentary oversight in Moldova faces several challenges, such as the polarization of political parties affecting decision-making in Parliament, the Government's full agreement for more effective oversight, and the need for a deeper understanding among MPs and staff on the importance of oversight and its positive effects on governance in the country.

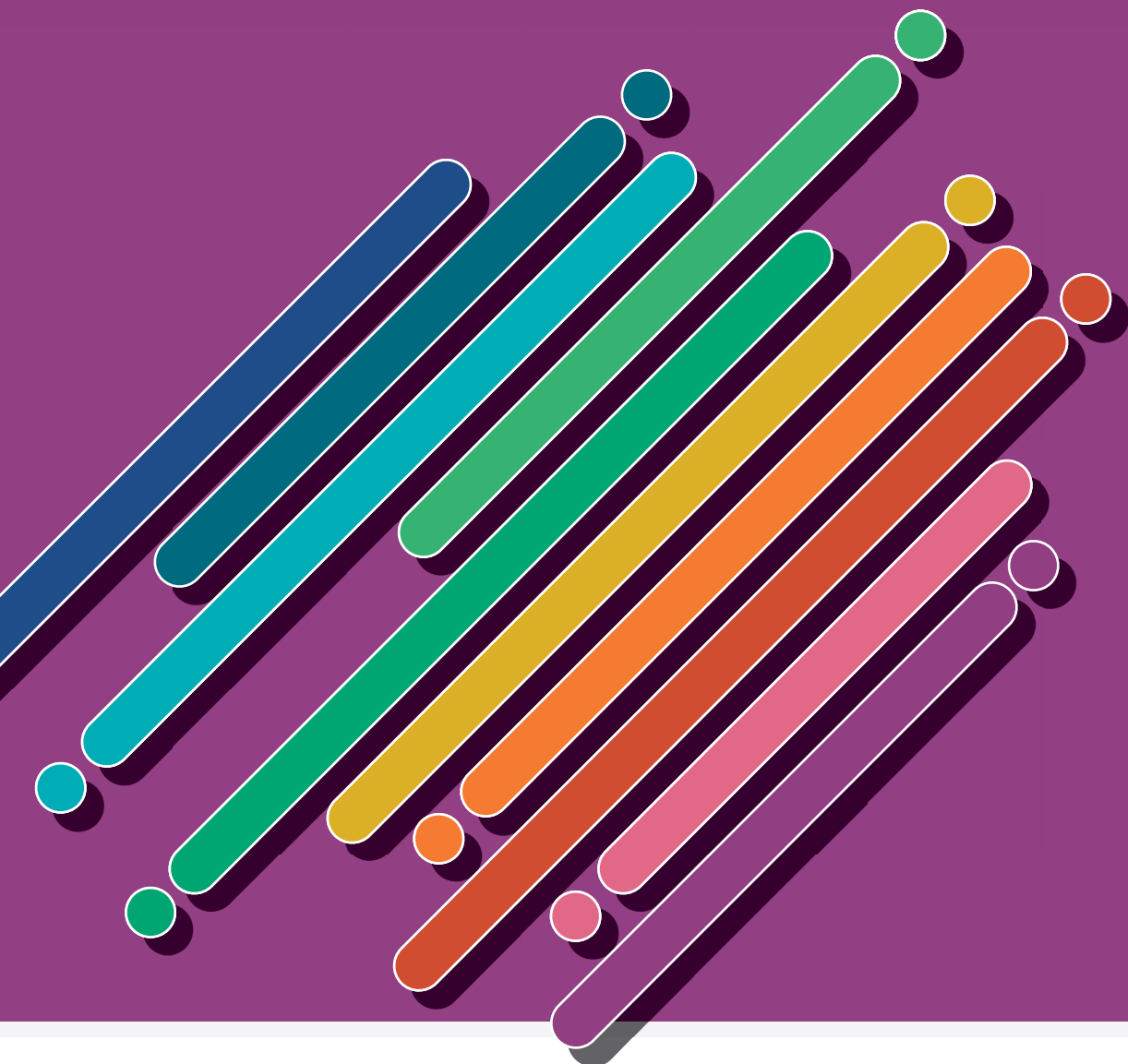
As the culture of parliamentary oversight in Moldova is still developing, the importance of incremental steps needs to be fully recognized. Nurturing a culture of parliamentary oversight requires time. Therefore, we hope that the process of discussions, interviews and workshops on oversight in the coming months will contribute to increased awareness among stakeholders on the importance and benefits of parliamentary oversight for the governance system in Moldova.

The current report offers a baseline study of the current practices and legal framework on parliamentary oversight in Moldova in six areas: Committee oversight, oversight of implementation of legislation, follow-up to reports by independent institutions and regulatory agencies, oversight of budget execution, oversight in plenary session, and oversight of gender equality policies and legislation. Considering relevant

European practices, the report makes proposals in each of the six areas. Most of the proposals are budget neutral, and could be implemented without additional financial or human resources in Parliament. Their implementation depends significantly on procedural adjustments, new SoPs for the staff of Parliament and the full engagement of the executive. The agreement of the Prime Minister and Ministers of the Government to the proposals is essential to achieve greater parliamentary oversight in Moldova.

Stronger oversight will contribute to good governance and better service delivery to the citizens. Political leaders have a reason to be proud of their work when building a culture of accountability and oversight.

Annexes



EXECUTIVE SUMMARY	<input type="radio"/>	<input type="checkbox"/>
INTRODUCTION	<input type="radio"/>	<input type="checkbox"/>
COMMITTEE OVERSIGHT	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF IMPLEMENTATION OF LEGISLATION	<input type="radio"/>	<input type="checkbox"/>
FOLLOW-UP TO REPORTS BY INDEPENDENT INSTITUTIONS AND REGULATORY AGENCIES	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF BUDGET EXECUTION	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT IN PLENARY SESSION	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT OF GENDER EQUALITY POLICIES AND LEGISLATION	<input type="radio"/>	<input type="checkbox"/>
CONCLUSION	<input type="radio"/>	<input type="checkbox"/>
ANNEXES	<input checked="" type="radio"/>	<input checked="" type="checkbox"/>

Annex 1: Bibliography

1.1. Reports on Moldova

1. Bulte, Sarmite D., *Report on Gender Audit of Parliament of Moldova*, Report in the framework of the UNDP Parliamentary programme, Chisinau, 2015.
2. De Vrieze, Franklin, *Anti-Corruption Self-Assessment of the Parliament of Moldova*, Report in the framework of the UNDP parliamentary project, September 2016.
3. De Vrieze, Franklin, *Independent Institutions and Regulatory Agencies in Moldova and Their Interaction with Parliament*, Report in the framework of the UNDP parliamentary project, Chisinau, 2011.
4. De Vrieze, Franklin; Cuznetova, Liuba; Litvinenco, Sergiu and Dinu, Dragos; *Institutional and Functional Analysis of the Secretariat of the Parliament of Moldova*, Report in the framework of the UNDP parliamentary project, Chisinau, 2016.
5. DeFaria, Carl and Pirvan, Viorel, *Draft Report on Rules of Procedure. Review of best practices and options*, Report in the framework of the UNDP parliamentary project, Chisinau, 2012.
6. Deveaux, Kevin, *Guidelines for the Operation of the Territorial Information Offices of Parliament of Moldova*, Report in the framework of the UNDP parliamentary project, Chisinau, 2015
7. Dubrow, Geoff, *Briefing Note on Investigative and Inquiry Committees – Best Practices*, Report in the framework of the UNDP parliamentary project, Chisinau, 2016
8. Dubrow, Geoff, *Handbook on Parliamentary Committee Oversight*, Report in the framework of the UNDP parliamentary project, Chisinau, 2016
9. Dubrow, Geoff, *Report on relations between the Court of Account and the Parliament of Moldova*, Report in the framework of the UNDP parliamentary project, Chisinau, 2016
10. Dubrow, Geoff, *Role of Parliamentary Committees: The Parliamentary Oversight Function in the Parliament of Moldova*, Chisinau, Report in the framework of the UNDP parliamentary project, December 2016.
11. Pogacar Bojan, *Assessment of the Annual Draft Budget Law and the Budget Review and Approval Process in the Parliament Procedure*, Report in the framework of the UNDP parliamentary project, Chisinau, December 2016.
12. Pogacar Bojan, *Concept Note – Enhance Role of the Parliament in the Budget Review Process*, Report in the framework of the UNDP parliamentary project, December 2016.
13. Pogacar Bojan, *Draft Concept Note – Role of the Budget Office in Parliament*, Report in the framework of the UNDP parliamentary project, December 2016.

1.2. Legal documents on Moldova

1. Constitution of the Republic of Moldova [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311496>];
2. RoP of the Parliament, approved by Law No. 797-XIII of 2 April 1996 (with subsequent amendments) [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=322831>];
3. Law No. 780-XV of 27 December 2001 regarding the legislative acts [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=313239>];

4. Law No. 982-XIV of 11 May 2000 regarding access to information [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311759>];
5. Law No. 239-XVI of 13 November 2008 on transparency in the decision-making process [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=329849>];
6. Law No. 190-XIII of 19 July 1995 regarding petitioning [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=313313>];
7. The Concept on the Cooperation Between the Parliament and the Civil Society [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=314906>];
8. The Strategy for the Development of the Civil Society for 2012–2015 and the Action Plan for the Implementation of the Strategy [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=346217>];
9. The Parliament Decision No. 48-XVIII from 29 October 2009 regarding the activity fields of the permanent committees of the Parliament [<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=332539>];
10. The Regulation on the Organization and Functioning of the Parliament Secretariat, approved by the Decision of the permanent Bureau of the Parliament No. 31 of 12 December 2012 [<http://parlament.md/Cad-rulLegal/RegulamentulaSecretariatuluiParlamentuluiRM/tabid/201/language/ro-RO/Default.aspx>];
11. The Instruction on the Circulation of Draft Legislative Acts in the Parliament, approved by Decision of the Permanent Bureau of the Parliament No. 30 of 7 November 2012 [<http://www.parlament.md/Cadrul-Legal/Instruc%C5%A3iuneprivindcircula%C5%A3iaproiectelordeact/tabid/197/language/ro-RO/Default.aspx>];
12. The Instruction on Works in the Parliament Secretariat of the Parliament of the Republic of Moldova, approved by Decision of the Permanent Bureau of Parliament No.7 of 20 March 2013 [not published]

1.3. Parliamentary Development Publications

1. Bernhardt, Peter, Parliamentary Scrutiny of Delegated Legislation in Canada: Too Late and Too Little? in: *The Loophole. Journal of the Commonwealth Association of Legislative Counsel*, Issue 3 / 2014, pp. 73–84.
2. Canadian Parliament, *Committees, Practical Guide*. 9th ed (revised). Ottawa: Procedural Services, House of Commons, 2014.
3. De Vrieze, Franklin and Hasson, Victoria, *Post-Legislative Scrutiny – Comparative Study of practices of Post-Legislative Scrutiny in selected parliaments and the rationale for its place in democracy assistance*, published by Westminster Foundation for Democracy, London, 2017.
4. De Vrieze, Franklin, *Global Mapping and Analysis on Parliamentary Strengthening, Swiss Development Cooperation SDC and Democracy Reporting International*, Bern and Berlin, April 2015.
5. European Commission, *Reference Document on Strategies & Methodologies for working with Parliaments*, Brussels, 2010.
6. European Parliament Directorate for Internal Policies, *Parliamentary Control of Budget Implementation – Study*, Brussels, 2012.
7. European Parliamentary Research Service, *Ex-post impact assessment and evaluation in the European Parliament – Method and process*, Brussels, October 2015.
8. Fish, S. & Koenig, M., *The Handbook of National Legislatures: A Global Survey*, Cambridge University Press, 2009.

9. Guidelines for Parliamentary Research Services, IPU and IFLA, 2015.
10. Interparliamentary Union, *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice*, Geneva, 2006.
11. IPU, *Gender-sensitive parliaments*, Geneva, 2011.
12. IPU, *Plan of Action for Gender-Sensitive Parliaments*, 2012.
13. Kelly, Richard and Everett, Michael, *Post-Legislative Scrutiny*, House of Commons Library Standard Note: SN/PC/05232; 23 May 2013, London.
14. National Democratic Institute, *Service and Accountability – Public Hearing Manual*, 2009, Skopje – Macedonia.
15. Office for Promotion of Parliamentary Democracy, *Electoral systems: The link between governance, elected members and voters*, European Parliament, Brussels, 2011.
16. The Law Commission, *Post-Legislative Scrutiny*, LAW COM No. 302, London, October 2006.
17. UNDP and IPU, *Global Parliamentary Report on Oversight*, New York and Geneva, 2017.

1.4. Reports from the ECPRD library

18. ECPRD request 0757, Parliamentary Minority Rights, 2007
19. ECPRD request 1698, Accountability of Government Members, informing the Parliament and parliamentary oversight procedure, 2011
20. ECPRD request 2173, Question time, interpellations and staff employed
21. ECPRD request 2199, The following-up of the implementation of the ratified laws, 2013
22. ECPRD request 2625, Parliamentary procedure for the annual report of the Ombudsman
23. ECPRD Request 2656, Parliamentary oversight of private bodies which spend public money
24. ECPRD request 2699, Questions to the Government members at the Plenary, 2016
25. ECPRD request 2715, The follow-up process of Inquiry Committees' reports, 2014
26. ECPRD request 2723, Committee on human rights and committees or bodies dealing with humanitarian aid in foreign countries, 2014
27. ECPRD request 2832, Parliamentary practice and organization regarding impact assessment (ex-ante) and evaluation (ex-post), 2015
28. ECPRD request 3154, Question Time in Parliament, 2016
29. ECPRD request 3449, Parliamentary cooperation with independent institutions, 2017

Annex 2: Statistical data on parliamentary oversight in plenary session

Fraction	Declarations			Questions			Interpellations			Questions Replies Total			Interpellations Replies Total		
	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014
PDM				7	9		2	5	2						
PSRM	2	3		37	41		2	3							
PL	1			2	18										
PCRM	2			19	19	23	3	2	5						
PLDM	5	4		18	19	14	9	5		80	98	47	17	15	5
Indep	2			2		7	1								
Common															
PLR (2014)						7									
Total	12	7		85	106	51	17	15	7						

Fraction	Motions Simple (S) and No-confidence (N)			The Results Of Motions Rejected (R) or Accepted (A)		
	2016	2015	2014	2016	2015	2014
PDM						
PSRM	S9			R9		
PL						
PCRM						
PLDM						
Indep						
Common	S1 N2			R3		
PLR (2014)						
Total	12					

PDM: Democratic Party of Moldova
 PSRM: Party of Socialists of the Republic of Moldova
 PL: Liberal Party
 PCRM: Party of Communists of the Republic of Moldova
 PLDM: Liberal Democratic Party of Moldova

Red: No information

Yellow: Partial information

Annex 3: Analysis chart of reports by independent institutions and regulatory agencies in Moldova

Questionnaire	ANRE	ANSC	OMBUD	CONCU	CoA
1. Date of establishment	1997	2017	1998	2000 2012	1994
2. Relevant parliamentary committee	CEBF	CEBF	HRIER	CEBF	CEBF
3. Line ministry	ECOINF			ECOINF	
4. Legal basis (relevant Act)	1998 2001 2012 2016/17	2015 2017	2014	2012	2008
5. Type of report to be submitted	ACT FIN	ACT	ACT	ACT	ACT FIN
6. Legal deadline for Parliament to receive report(s)	ACT: 01.06 FIN: 15.03	ACT: 15.03	ACT: 15.03	ACT: 01.06	ACT: 10.10 FIN: 15.03
7. Does legislation require Parliament to formally approve the annual activity report?	Yes	No	No	No	No
8. Can the institution present, at its own initiative, reports or statements to Parliament?	Yes	Yes	Yes	Yes	Yes
9. Date of receipt of report in Parliament: in 2016: / in 2017:	06.05.16 26.05.17	N/A	15.03.16 15.03.17	31.05.16 31.05.17	07.10.16 10.10.17
10. Date of Cmt meeting on activity report: in 2016: / in 2017:	Not '16 4.10.17	N/A	April 16 April 17	25.07.16 19.07.17	19.12.16 ...11.17
11. 11. Did the Committee organize a meeting with a representative of the institution? in 2016: / in 2017:	No '16 Yes '17	N/A	Yes '16 Yes '17	Yes '16 Yes '17	Yes '16 Yes '17
12. 12. Did the Committee organize a hearing with other stakeholders? in 2016: / in 2017:	No '16 No '17	N/A	Yes '16 Yes '17	No '16 No '17	Yes '16 Yes '17
13. 13. Did the Committee adopt its conclusions/recommendations on the report? in 2016: / in 2017:	No '16 Yes '17	N/A	Yes '16 Yes '17	Yes '16 Yes '17	Yes '16 Yes '17
14. Parliamentary response to report of independent institution in 2016 Report distributed to all MPs for inform Report published on parliamentary website Report debated in plenary session Plenary session hearing with independent inst. Plenary session declaration/resolution	1.Yes 2.No 3.No 4.No 5.No	N/A	1.Yes 2.No 3.Yes 4.No 5.yes	1.Yes 2.Yes 3.No 4.No 5.No	1.Yes 2.Yes 3.Yes 4.yes 5.yes
15. Parliament response to report of independent institution in 2017 Report distributed to all MPs for information Report published on parliamentary website Report debated in plenary session Plenary session hearing with independent inst. Plenary session declaration/resolution	1.Yes 2.No 3.No 4.No 5.No	N/A	1.Yes 2.No 3.Yes 4.No 5.yes	1.Yes 2.Yes 3.No 4.No 5.No	1.Yes 2.Yes 3.Yes 4.Yes 5.Yes
16. Did the Committee conduct follow-up meetings or correspondence on its review of the report with the independent institution? in 2016: / in 2017:	No '16 Yes '17	N/A	Yes '16 Yes '17	Yes '16 Yes '17	Yes '16 Yes '17
17. Did the Committee conduct follow-up meetings or correspondence on the findings of the report with the Ministry and other public authorities? in 2016: / in 2017:	No '16 No '17	N/A	Yes '16 Yes '17	No '16 No '17	Yes '16 Yes '17
18. Has the budget request of the institution been discussed in the parliamentary Committee during the last two years?	Yes	N/A	No	No	No
19. Have financial and performance audit reports of CoA on the independent institution been discussed in parliamentary Committee during the last two years?	No (N/A)	N/A	No	Yes	Yes (independent Auditors report)
20. Did Parliament enact any changes to the mandate or powers of the independent institution during the last two years?	Yes	N/A	Yes	No	Yes

Annex 4: Agenda of meetings by the assessment team, 26 September – 5 October 2017

Date	Time	Place	Name	Function
26.09	10.00	Parliament	Roman Boțan	Chair of the National Security Commission, Defence and Public Order
27.09	12.30	Parliament	Vladimir Țurcan	Chair of the Commission Human Rights and Inter-Ethnic Relations
27.09	14.00	Parliament	Vasile Bolea	Secretary of the PSRM faction, Deputy Legal Commission, Appointments and Immunities
29.09	9.00	Parliament	Creanga Ion	Head of the Legal Department of the Parliament Secretariat
02.10	10.45	Parliament	Marian Lupu	Democratic Party Chair
02.10	14.00	Parliament	Ina Șupac	The leader of the PCRM faction in Parliament
02.10	16.00	90 București St. 3rd floor	Iulian Groza	Executive Director, Institute for European Policies and Reforms
03.10	10.00	69 Ștefan cel Mare St.	Untilă Veaceaslav	President of the CoAs
03.10	14.30	Parliament	Focus Group	Committee consultants
04.10	11.00	Parliament	Ala Popescu	General Secretary, Parliament
04.10	11.30	Parliament	Tudor Deliu	Vice-Chair Legal Committee, Appointments and Immunities
04.10	13.00	Government	Roman Cazan	Deputy Secretary-General of the Government
			Chelaru Oleg	Head of the RIA Secretariat, State Chancellery
			Roman Ladus	Member of the Prime Minister's economic Council
05.10	10.00	45 Pushkin St., 2nd floor	Ion Gumene and Dumitru Budianschi	Expert – Grup
05.10	11.30	Parliament	George Saghin Ala Mirza	Speaker's Office, councillors
05.10	13.00	Government	Roman Cazan	Deputy Secretary-General of the Government
			Oleg Chelaru	Head of the RIA Secretariat, State Chancellery
05.10	15.00	Parliament	Zagorodnii Anatolie	Vice-Chair Legal Committee, Appointments and Immunities



*Empowered lives.
Resilient nations.*

The assessment report “Parliamentary Oversight in Moldova” has been drafted by Franklin De Vrieze, international parliamentary consultant, with the support by Viorel Pirvan, national consultant.

The report is prepared within the framework of the “Strengthening Parliamentary Governance in Moldova” project, funded by the Government of Sweden and implemented by the United Nations Development Programme (UNDP) in Moldova.

The views expressed in the report are those of the author and do not necessarily represent the views of these institutions.