

EU-Moldova relations:  
Role of the Moldovan Parliament

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## Glossary

<i>Acquis</i>	European Community legal framework (also <i>acquis communautaire</i> )
EC	European Community
EID	European Integration Department ( <i>at MFAEI</i> )
ENP	European Neighbourhood Policy
EU	European Union
EUMAP	EU-Moldova Action Plan
FPEIC	Foreign Policy and European Integration Committee ( <i>of the Parliament</i> )
MFAEI	Ministry of Foreign Affairs and European Integration
NCEI	National Commission for European Integration
NGO	Non-Governmental Organisation
NPAA	National Programme for the Adoption of the <i>Acquis</i>
PCA	(EU-Moldova) Partnership and Cooperation Agreement
PCC	Parliamentary Cooperation Committee
WTO	World Trade Organisation

## **Executive Summary**

### **Conclusions**

The main conclusion to be drawn from the current review of the Parliament's involvement in EU-Moldova relations is that of limited activity, largely due to the fact that not much law approximation activity has been taking place on the Government side. The Government is now in the process of organising its coordination mechanisms and possibly some systematic work could begin in the near future.

The Parliament now has to make a decision without delay on how it will organise its involvement in EU-Moldova relations, as well as on the specific way to adapt its structures to the chosen role. The key challenge is to determine the priority areas for law approximation, its sequence and the extent. Convergence with Community law in the priority areas needs to become an integral part of the internal decision-making and legislative agenda. Adoption and implementation of the Community law requires substantial institutional capacity, efficient coordination and considerable investment.

### **Recommendations**

The Parliament should play an active role in driving the European integration agenda forward, calling for Government action in the priority areas. It should develop strategic relationship with the Government on public policy definition. Once the strategic decision is taken, its implementation should go to the technical level. The Parliament should also ensure that the Government has the necessary resources to perform its European integration tasks. The Parliament can play a more decisive role at the following four principal levels:

- § Shaping and driving forward the EU-Moldova relations, including the setting of priorities and political oversight of the Government actions to implement them;
- § Promoting the EU-Moldovan law approximation process;
- § Monitoring implementation of the approximated laws; and
- § Communicating the European integration process to the general public.

The first three roles could imply involvement of the following parliamentary bodies: Committee on Foreign Policy and European Integration, the Legal Directorate and the legislative committees. A good way to develop the fourth (informational) role could be first by establishing an internal EU information centre at the Parliament destined to serve the Members of Parliament and its staff. The decision on whether the Parliament should get involved in raising the general public awareness could be taken at a later stage, based on the experience gathered in the process of developing this internal EU information centre.

#### **Potential role of the Committee on Foreign Policy and European Integration**

- § Approving priorities for EU-Moldova relations prior to negotiations with the EU;

- § Monitoring and promoting implementation of the agreed priorities on the basis of an overarching Government work programme; and
- § Promoting law approximation on the basis of the Legislative Programme.

The Parliament has to make its contribution to formulating priorities for EU-Moldova relations, including law approximation. It has to ensure that these priorities are agreed at the political level and that they enjoy support of the general public, as well as that of the public administration. The Committee should take the Government programme for implementing the EU-Moldova Action Plan as the basis for monitoring. It should ensure that the Government submits draft legislation in good time and that the pace of the adoption process inside the Parliament also respects the deadlines.

#### Potential role of the Legal Directorate

- § Verifying conformity of the submitted draft legislation with Community law;
- § Verifying the amendments adopted by the responsible committee; and
- § Final verification of the adopted laws.

The Parliament should not establish a law approximation capacity parallel to that of the Government. The Legal Directorate should play a control function and ensure that the Parliament does not adopt amendments contradicting Community law. All legal expertise should be concentrated in the Legal Directorate. Committee advisers should have general knowledge of Community law principles to spot a possible risk and to alert both the Legal Directorate and Members of Parliament. It should be the Legal Directorate that performs the legal expertise, possibly testing only those amendments that are adopted by the responsible committee.

#### Potential role of the legislative committees

- § Setting priorities for the EU-Moldova relations in the respective sector;
- § Evaluating the impact of implementing certain EU legal aspects in the respective sector prior to deciding on the extent and pace of law approximation;
- § Avoiding amendments contradicting Community law in those areas where the decision on approximation has been taken; and
- § Monitoring implementation of the approximated laws in the respective sector.

Committee advisers should analyse the impact on the respective sector of approximating a certain law to Community legislation and implementing it. The general impact assessment should ideally take place already at the stage of priority setting. This should enable members of the respective committee to formulate a political decision, taking into account its wider implications on the society. Finally, the legislative committees could assume a role in monitoring implementation of the approximated legislation. The Committee on Foreign Policy and European Integration could perform this task at an aggregate cross-sector level.

## Chapter I. Current Status of EU-Moldova Relations

### *Partnership and Cooperation Agreement*

The Partnership and Cooperation Agreement (PCA) between the EU and Moldova was signed on 28 November 1994. It came into force on 1 July 1998, providing the legal basis for the EU-Moldova relations. The PCA objectives are to:

- § Provide an appropriate framework for the political dialogue, allowing the development of political relations;
- § Promote trade and investment, and harmonious economic relations, thus, fostering their sustainable economic development;
- § Provide a basis for legislative, economic, social, financial and cultural cooperation; and
- § Support the efforts of Moldova to consolidate its democracy, to develop its economy and to complete the transition to market economy.

Article 50 of the PCA stipulates that an important condition for strengthening the economic links between Moldova and the EU is approximation of the Moldovan legislation to that of the Community. In particular, the approximation of laws shall extend to the following areas: customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, financial services, rules on competition, public procurement, protection of health and life of humans, animals and plants, the environment, consumer protection, indirect taxation, technical rules and standards, nuclear laws and regulations, and transport.

Article 98 of the PCA stipulates that it is concluded for an initial period of ten years. It shall be automatically renewed year by year provided that neither party gives the other party written notice of its denunciation six months before the PCA expires (30 June 2008). Moldova has repeatedly been expressing its wish to negotiate with the EU a new bilateral treaty similar to the Stabilisation and Association Agreements of the Western Balkan countries.

The PCA institutional framework includes a Cooperation Council, a Cooperation Committee and a Parliamentary Cooperation Committee (PCC). The Cooperation Council consists of members of the EU Council and the European Commission, and members of the Moldovan Government. The Council meets at ministerial level once a year to supervise implementation of the PCA and a Cooperation Committee assists it. The composition of this Committee resembles that of the Council, only at the level of senior civil servants. The latest Cooperation Council meeting has taken place on 11 April 2006.

The Cooperation Committee has established five sub-committees in the following fields: trade and investments; economic and financial issues; customs, cross-border co-operation and fight against organised crime; transport, telecommunications, energy, environment, education and training, science and technologies, culture; steel and coal trade. PCC serves as a forum for members of the Moldovan and European parliaments to meet and exchange views. The

Moldovan Parliament Decision No. 104 of 23 July 1998 established it on the basis of the parliamentary delegation for cooperation with the European Parliament.

According to the European Integration Strategy document of Moldova (see below), the Cooperation Council decided to prioritise the cooperation fields in 2002. The following fields have been identified as the most important:

- § Promoting trade and economic relations;
- § Cooperation in the field of justice and home affairs;
- § Customs and cross-border cooperation;
- § Approximation of legislation;
- § Conducting a feasibility study on the establishment of a free trade area.

### ***European Neighbourhood Policy and the EU-Moldova Action Plan***

#### **Objectives and general principles**

The European Neighbourhood Policy (ENP) was developed in the context of the EU enlargement of 2004 to avoid the emergence of new dividing lines between the enlarged EU and its neighbours. Since 2004, relations with the neighbouring countries have become the main external priority of the EU. ENP was first outlined in a European Commission communication on Wider Europe in March 2003, followed by a more developed ENP Strategy Paper in May 2004.

The main objective of ENP is promoting the rule of law, stable democracies and prosperity (i.e. security, stability and prosperity) throughout the neighbourhood of the enlarged EU. ENP is a means of working jointly with the EU neighbours to:

- § Advance freedom and democracy in the EU neighbourhood by deepening political cooperation on the basis of shared values and common interests;
- § Promote prosperity in the EU neighbourhood by supporting neighbours' economic reform processes and offering significant economic integration; and
- § Promote security and stability by working with neighbours to address development, environmental, weapons' non-proliferation and counter-terrorism issues (in line with the European Security Strategy).

ENP provides incentives for reforms that bring benefits in terms of economic and social development, as well as benefits from greater trade and other access to the EU. It offers a stake in the EU Internal Market, as well as integration into other key EU policies through participation in Community programmes in such fields as education, training and youth, research, environment, culture and audio-visual policy. Overall, the reforms should lead to a better macro-economic environment and long-term stability.

The EU and Moldova should strengthen through ENP their political dialogue and make it more effective. It should cover foreign and security policy, e.g. regional and international issues,



conflict prevention, crisis management and common security threats (e.g. terrorism and its root causes, non-proliferation of weapons of mass destruction and illegal arms exports). It should also promote effective multilateralism and could lead to an eventual involvement of Moldova in aspects of the EU Common Foreign and Security Policy or the European Security and Defence Policy (e.g. possible participation in EU-led crisis management operations).

ENP represents a new approach in EU relations with its neighbours. While building on the traditional cooperation-based approach, ENP:

- § Combines the main EU policy instruments in a more focused way, going beyond classical foreign policy to support reform and modernisation based on EU experience.
- § Covers with greater intensity a wider range of issues throughout all fields of governance. In parallel with political and economic reform, the EU offers some extent of economic integration and closer political cooperation.
- § Is backed by improved financial and technical assistance.
- § Uses proven methodology and incentives to promote democratic and economic reforms. ENP sets clearer priorities and objectives in the Action Plans, while their implementation is carefully monitored.
- § Provides incentives for resolving the outstanding issues in bilateral relations
- § Is both tailor-made and dynamic, thereby offering a greater potential for future development of the relations.

The bilateral Action Plan is a key element of ENP, which is mutually agreed between the EU and Moldova. It is a political document, reflecting political agreement between the EU and Moldova on the agenda, objectives and priorities for future relations. These relations are based on the existing contractual relationship with the EU – the PCA. The EU-Moldova Cooperation Council adopted the Action Plan on 22 February 2005. It has a lifespan of three years and sets out an agenda of political and economic reforms, which are identified as immediate or medium-term priorities.

The reforms set out in the EU-Moldova Action Plan (EUMAP) should contribute to poverty reduction and the modernisation of public services. Reducing barriers to trade and investment in Moldova, the convergence of economic legislation, the opening of its economy, as well as promotion of regional network and integration with the EU, should lead to investment and growth. The level of ambition of the EU-Moldova relationship depends on the extent, to which the common values are effectively shared. EUMAP is structured into eight chapters, on which Moldova has to deliver.

Giving the ENP countries a stake in the EU Internal Market is a long-term objective. The process will be gradual and the elements and areas of integration will be defined in each case, depending on the capacity and interests of both sides. At present, it is not possible to define exactly what a stake in the Internal Market will mean, since this may be different for each ENP country. It will depend on the individual country's priority areas for greater economic integration with the EU and on whether it has implemented the necessary reforms that enable it to participate. However, the free movement of persons is not on the agenda for the foreseeable future.

Trade facilitation is one of the overall objectives of ENP. All of the ENP Action Plans contain a range of priorities in this area, including harmonisation of standards, aligning regulation, improving customs procedures and addressing the existing trade barriers. The priorities for the eastern ENP countries are, firstly, full implementation of the trade-related provisions of the existing PCA and the WTO accession agreement, along with continued economic reform. Deeper integration of trade and economic relations can be considered only after that is achieved.

According to the European Commission, Moldova does not yet have the competitive strength or administrative capacity (e.g. effective control of the origin of goods) to take on the reciprocal obligations of a free trade agreement<sup>1</sup>. A joint study of 1999 suggested postponing establishment of a free trade area until the regulatory, administrative and economic conditions would allow Moldova to take full advantage from it. However, the EU is ready to consider other initiatives to grant better market access, in line with WTO obligations.

There is no general obligation for Moldova to adopt EC law (*acquis communautaire*). However, harmonisation of national laws with the relevant EC legislation may be required to participate in Community programmes and/or to integrate into the EU Internal Market. For example, for more efficient trade with the EU, it is necessary to adopt the EU labelling rules, food safety (veterinary and phytosanitary) standards and to use EU customs procedures.

### **Monitoring implementation of the EU-Moldova Action Plan**

Achievement of the objectives defined in the Action Plan is continuously promoted and monitored through the five sub-committees of the Cooperation Committee (see above), ensuring joint ownership of the process. This monitoring will provide guidance for future adaptation of the Action Plan based on progress of the reforms in Moldova. In return for progress on the reforms contained in the Action Plan, the EU would offer to Moldova greater integration into European programmes and networks, increased assistance and enhanced market access.

In its 2004 ENP Strategy Paper, the European Commission proposed that it would present a mid-term review of the progress within two years after the entry into force of the Action Plans. According to the European Commission, the mid-term review of EUMAP will take place before the end of 2006 based on the monitoring process and information provided by partners. Hence, the European Commission will publish a respective working paper already around August this year. A further review would take place within three years of the formal approval of the Action Plan, which in the case of Moldova means before February 2008. EUMAP could be adjusted as required as a result of this final review.

It is a dynamic process - when monitoring demonstrates significant progress, the incentives offered by the EU can be reviewed, the Action Plan adapted or further proposals made as regards future relations. There are no legal sanctions for failure to implement commitments contained in the ENP Action Plans. In such a situation, the consequences would rather be political (in terms of the overall relationship with the EU) and/or financial (in terms of EU assistance provided to support that policy area).

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<sup>1</sup> See the Frequently Asked Questions on the ENP at <http://ec.europa.eu/comm/world/enp>.

Civil society and non-governmental organisations (NGOs) play an important role in this process. Reporting and monitoring by civil society and NGOs, whether national or international, will be one of the sources of information for the European Commission in assessing the progress made in implementing the reform commitments. Continuous development of ENP will also depend on feedback from civil society, which is best placed to judge the reform effects in Moldova and other partner countries.

In the 2004 ENP Strategy Paper, the European Commission proposed that the next step in contractual links with the ENP countries could take the form of European Neighbourhood Agreements. Their scope will be defined, depending on the progress in meeting the priorities contained in the ENP Action Plans. However, it is still premature to discuss such possibilities, since implementation of the first ENP Action Plans has only recently begun. In any case, much will depend on the progress that Moldova makes in implementing the priorities agreed in the current Action Plan. The progress, in turn, will depend on the administrative capacity of Moldova and the political will.

According to a European Commission assessment, Moldova still has a lot to do in terms of political and economic reform. Moldova could envisage taking on board further responsibilities (that are associated with accession to the EU) only after the reforms spelt out in EUMAP are complete<sup>2</sup>. At this stage, Moldova should combine vision with realism and focus on delivering these reforms. The proposal of the European Commission on the legal form of future relations between Moldova and the EU will directly depend on the progress made by 2008.

Head of the European Commission Delegation in Moldova (opened in October 2005) confirmed that they are performing continuous monitoring of the progress: law by law, item by item. It was also stressed that EUMAP is not only valid for three years, but can remain the target for another 20 years until its objectives are achieved. According to the European Commission, Moldova is slightly behind the schedule on EUMAP implementation and the results have so far been limited. One of the reasons is the lack of capacity in the technical departments of the Moldovan public administration to prepare all the necessary draft legislation.

In general, the European Commission notes progress, but it is not fully satisfied. A number of positive steps have been recorded: the European Commission notes good progress on bilateral trade issues and some progress on business environment. However, there has been no significant progress on the fight against corruption and the measures related to democracy, the rule of law and justice.

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<sup>2</sup> See the Frequently Asked Questions on the ENP at <http://ec.europa.eu/comm/world/enp>.

## Chapter II. Government Actions in EU-Moldova Relations

### European integration objective

In spring 1999, the new Government of Moldova included in its work programme a special chapter on European integration, defining it as the main strategic objective of its foreign policy. But in late 1999, the Government was dismissed, negatively affecting the relationship between the EU and Moldova. The European Commission even deferred a €15 million grant in support of the balance of payments and postponed to an indefinite date the EU-Moldova Cooperation Council meeting.

The European integration aspirations regained momentum at the end of 2003, when the President issued the Decree No. 957-III of 13 November 2002, establishing a National Committee for European Integration (NCEI). It stipulates that this Committee has to draft a European integration strategy for Moldova and submit it to the Parliament for approval, as well as to adopt an action plan for its implementation and to coordinate it.

On 16 September 2003, the Committee approved a Concept of Integration of the Republic of Moldova into the EU and submitted it to the European Commission. It expresses a political message and confirms the European choice of Moldova. The Concept provides guidelines for achieving the European integration objective, recognising the important role played by the actors at central and local government level, as well as the civil society. The EU-Moldova Action Plan of February 2005 states that the EU acknowledges the European aspirations of Moldova and its Concept for Integration into the EU. On 2 April 2004, the Government issued the Decree No. 351 that asked for a strategy to implement this Concept.

The work on drafting the European Strategy of the Republic of Moldova was performed by the Ministry of Foreign Affairs and European Integration (MFAEI) in cooperation with an NGO *Institute for Public Policy*. It is a home paper aimed at preparing the country for accession to the EU. The document analyses the legal and institutional framework in each relevant field, formulates the current problems and provides for both short (one-year) and medium term (three-year) priorities. However, it is more than 600 pages long and resembles more an all-encompassing action plan to adopt all EU standards in all areas rather than a strategy document. Moreover, this strategy was not taken into account during the negotiations on EUMAP.

Perhaps this is the reason why the Government chose not to work on the basis of this paper, which was finalised in 2005. Instead, the Government has drafted its own 2006-2007 National Programme to Implement the EU-Moldova Action Plan and presented it to the European Commission. It lists the measures required for implementing the individual EUMAP objectives, together with specific deadlines, the responsible institution and official(s), the financing sources, as well as the current status of implementation. An additional list of short-term priorities to be implemented by the end of March 2006 was also established on the basis of those where EUMAP requires “particular attention”. This list required particular focus on those priorities, “while addressing all the EUMAP priorities”.

According to MFAEI, the European Strategy of the Republic of Moldova is now under revision to adjust it to the Government priorities for 2005-2009. Once this work is over, it should guide the EU-Moldovan law approximation process. However, the added value of this exercise for the purpose of law approximation is not clear. Nevertheless, according to the NGO *Institute for Public Policy*, the European Strategy should contribute to promoting coherence amongst some 300 strategies that currently exist in Moldova independently from each other.

The Government now sees trade cooperation and energy as the main priorities for EU-Moldovan cooperation in the economic field. Moldova currently benefits from the General System of Preferences in its trade relations with the EU, but it would like to obtain such Autonomous Trade Preferences as the Western Balkan countries have. The Government has also drafted a National Action Plan for 2005-2009 in the environment field to harmonise the respective legislation with EC law. However, the European Commission has reportedly judged this plan to be too ambitious.

MFAEI is currently drafting a new foreign policy concept of Moldova where the European integration objective will feature even more prominently. The Parliament has also contributed to this process. However, some Members of Parliament from the opposition accuse the Government in the lack of political will to carry out the reform process and in not doing enough to communicate with the public at large. The main reason for this is allegedly the fear of the ruling party to lose votes in the next general elections. The NGO *Institute for Public Policy* has also emphasised that the Government needs specific budget allocations for EUMAP implementation, which do not exist at this moment.

## **Institutional framework**

NCEI is the highest political body in the European integration process of Moldova. Priorities, problems and the possible solutions are discussed during its meetings, which normally take place once a month. These meetings are usually scheduled shortly before or after the Cooperation Council meetings. NCEI is composed of 29 members, as follows:

- § Government represented by the Prime Minister, Deputy Prime Minister, Ministers responsible for policies in the areas that are related to the European integration process, Deputy Ministers, heads of other specialised units of the central administration;
- § Parliament represented by the Deputy Speaker, Chairman of the Foreign Policy and European Integration Committee, and two additional Members of Parliament;
- § Presidential administration represented by the President's Counsellor, heads of units;
- § National Bank of Moldova represented by its Governor;
- § Gagauzian Autonomous Territory (Gagauz-Yeri) represented by its Governor (Bashkan);
- § One educational establishment; and
- § One NGO (currently, the *Institute for Public Policy*).

The Prime Minister presides over NCEI and is assisted by a deputy chairman (Minister of Foreign Affairs and European Integration) and two secretaries (Deputy Ministers of Foreign Affairs and European Integration, and Economy). NCEI approves its decisions by consensus and they do not have a strict normative character, but should rather be seen as providing

guidance for the public administration authorities. NCEI also has the power to create and manage working groups, and it is responsible for ensuring communication with the general public and for coordinating the training activities on European affairs.

Overall coordination of the European integration process on the Government side is assigned to MFAEI, including monitoring of EUMAP implementation. In August 2003, a separate European Integration Department (EID) was established at the Ministry (Decisions No. 960 of 4 August 2003 and No. 981 of 8 August 2003) to strengthen the institutional capacity for integration into the European structures and to implement the strategy on accession of Moldova to the EU. EID was created on the basis of the General Unit for European Integration and the National Bureau For Stability Pact in South-Eastern Europe, as well as through taking over the relevant functions from the Ministry of Economy. EID staff numbers 29 and it is managed directly by the Minister.

At the same time, the Government gave an instruction to other Ministries and departments to create units for European integration within one-month period. These are now also responsible for EUMAP implementation in their respective field of competence. In 2004, an inter-ministerial group in charge of legislative approximation was set up and the Government of Moldova issued a decree on the establishment of a diplomatic mission to the EU. Furthermore, in late 2004, the Minister of Foreign Affairs was made Deputy Prime Minister to monitor efficiently all Government actions related to the European integration process.

EID has the task of coordinating the relations between Ministries and other central public administration bodies of Moldova and the EU institutions, as well as with the Special Coordinator's Office of the Stability Pact for South-Eastern Europe. EID has the right to request that Ministries and other relevant central and local public administration bodies submit information regarding their European integration activities within its established deadline. EID also has the power to issue instructions to Ministries and other relevant public administration bodies on issues relating to European integration and the participation of Moldova in the Stability Pact initiatives.

EID is also responsible for ensuring coherence amongst the Government programmes and actions in the fields of European integration and regional cooperation in South-Eastern Europe. It has the function to facilitate cooperation between the Moldovan public authorities and the EU, as well as the donor countries or organisations to ensure compliance of projects to be submitted for funding with the priorities of Moldova. It also ensures financial management of the EU assistance.

Finally, EID coordinates the information campaigns and public opinion polls in Moldova regarding the EU accession perspective and the effects of European integration. At some point, the Moldovan authorities were even considering to establish more than thirty inter-ministerial groups, reflecting the number of negotiation chapters during the process of EU accession.

In accordance with the Government Decree No. 786 of 1 August 2005, four committees for coordinating inter-ministerial activities in the European integration field and EUMAP implementation have been established. Each of these committees is responsible for implementing a certain part of EUMAP. They include several public administration bodies and are coordinated by one Ministry, as follows:



- § Committee on Legal and Security Issues coordinated by the Ministry of Justice (also includes representatives of the Ministry of Interior, Ministry of Reintegration, National Migration Bureau, Border Guard Service, Office for the Fight against Economic Crime and Corruption, Office of the Prosecutor General, as well as the Intelligence and Security Service);
- § Committee on Socio-Economic Issues coordinated by the Ministry of Economy and Trade (also includes representatives of the Ministry of Finance, Ministry of Agriculture and Food Industry, Ministry of Health and Social Protection, Ministry of Industry and Infrastructure, Customs Service, Standardisation and Metrology Service, National Statistics Bureau, Central Bank, State Agency on Intellectual Property Protection and the Court of Auditors);
- § Committee on Infrastructure coordinated by the Ministry of Transport and Road Management (also includes representatives of the Ministry of Industry and Infrastructure, Ministry of Ecology and Natural Resources, Ministry of Information Development, State Administration of Civil Aviation, as well as the National Regulatory Agencies on Energy, and on Telecommunications and Information Technology); and
- § Committee on Cultural and Humanitarian Issues coordinated by the Ministry of Education, Youth and Sports (also includes representatives of the Ministry of Culture and Tourism, Academy of Sciences and the Interethnic Relations Bureau).

Each of the coordinating Ministries ensures monitoring and sector-based coordination of EUMAP implementation on a monthly, quarterly and semi-annual basis. MFAEI provides for general monitoring at Government level and ensures cooperation with external partners (mainly, the EU institutions). In September 2005, NCEI adopted the first sector-by-sector evaluation report of EUMAP implementation, covering the first semester of 2005. A second similar report reviewed progress made in the 3<sup>rd</sup> quarter of 2005. MFAEI compiles these reports on the basis of information received from the respective coordinating Ministries and other public administration bodies. These reports are also made available to the European Commission.

However, the Speaker of the Parliament, as well as the NGO *Institute for Public Policy* have highlighted the need for an independent evaluation of the progress on EUMAP implementation or at least a system of objective indicators. Moreover, according to a 2005 Report on Review of the Government Decision-Making Process implemented by the Moldovan NGO *CASE Moldova Foundation*, the entire system does not seem to be fully efficient, since it runs five parallel coordinating institutions. Thus, it results in duplication and overlap of activities, especially between MFAEI on the one side, and the Ministry of Economy and Trade on the other, causing extra paperwork. Coordination of Government activities in this format would become even more complicated after systematic work on legal harmonisation is started.

The Government has declared that the European integration process will be a priority for the institutional and functional improvement of the administrative structure and the public administration capacity in the framework of the currently ongoing central public administration reform for the coming seven to ten years<sup>3</sup>. One of the main methods of the reform has so far been the reduction of the number of State institutions along with the downsizing of the entire public service, while at the same time raising the salaries of those that stay. The reform

<sup>3</sup> See the Government Decision No. 1402 on the Strategy for Central Public Administration Reform in Moldova of 30 December 2005.

envisages development of a “unique mechanism” to coordinate all the European integration activities and to adjust the national legal framework to EC law <sup>4</sup>.

The implementation plan of this reform provides for the establishment of a special unit at the Ministry of Justice, which would be responsible for harmonising Moldovan legislation with EC law, as well as for the creation or strengthening of similar units in the specialised bodies of the central public administration by mid-2006<sup>5</sup>. The Ministry of Justice is considered to have the principal authority for law harmonisation on the Government side, since it is responsible for scrutinising the legal aspects of all draft legislation. In general, there are also future plans to decouple the Foreign Affairs competence from the European integration issues.

## **Law approximation**

A coordinated system for harmonising Moldovan legislation with that of the EU is not yet established. Law approximation activities in Moldova were initiated in 1999 with the support of series of consecutive EC technical assistance projects to facilitate PCA implementation. A small 10-month European Expertise Service project of 1999 was followed up by a 30-month TACIS project of €2.5 million, which began in April 2000 and was scheduled to end in March 2003. Finally, it was followed up by a €199,500 project implemented in the framework of the TACIS Small Project Programme between July 2003 and March 2004.

In the framework of this assistance, the legal harmonisation activities were limited to new laws in the areas covered by Article 50 of the PCA. An internal mechanism, consisting of a legal monitoring system, a legal clearance system and a legal advice system was also established. The Ministry of Justice established a working group of approximately ten civil servants to cooperate with the PCA project experts and these officials were trained in specific areas of EC law and policies. Experts provided their opinion on draft legislation, which could be appended to the explanatory memorandum at the discretion of the Ministry of Justice. Thus, there is no guarantee that these opinions ever reached the Parliament.

In addition, the PCA project experts occasionally cooperated with the Centre for Legislative Drafting and other Government Ministries and departments (e.g. on drafting the following laws: conformity assessment of products, audit, limited liability companies, investments). The Centre for Legislative Drafting was established in 2002 as part of the Prime Minister's Office, but it does not exist any longer. During the four years of its activity, the PCA projects produced a total of some 250 opinions on legal harmonisation of new legislation. It also financed some twenty comparative studies in different areas and a European Documentation Centre was set up in the Government building in July 2000. It also has a website (<http://ced.pca.md>), while a pass is needed to visit it in person.

EC has also financed other technical assistance projects, dealing with legal harmonisation in particular areas: e.g. standardisation (launched in 2003), industrial property (2004). In 2003, the Government established a National Commission for Legal Approximation and attempted to carry out a general assessment of the national legal framework in view of the Copenhagen criteria. However, it is understood that the results of this activity have not been made public.

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<sup>4</sup> See Annex No. 1 to the Government Decision No. 1402 of 30 December 2005.

<sup>5</sup> See Annex No. 2 to the Government Decision No. 1402 of 30 December 2005.



Thus, there has been no systematic and coordinated approach to legal harmonisation in Moldova. The Ministry of Justice is the only public institution with a somewhat stable pool of experts in this field.

Two main issues have to be addressed to arrive at a coordinated system for law approximation: establishment of the required legal framework and development of the necessary institutional mechanism. The necessary adjustments to the Law on Legislative Acts (No. 780-XV of 27 December 2001) and the Law on Normative Acts (of 18 July 2003) have passed the first reading stage at the Parliament at the beginning of June 2006. It was further adopted in the second and final reading on 15 June 2006 and now awaits the promulgation from the President.

The main novelty of these amendments is a requirement that the explanatory memorandum to all new draft laws includes assessment of their compliance with EC law. However, there are some doubts if the Government will actually have the required capacity to perform this task. The Parliament wants the Government to include this compliance assessment in the explanatory memoranda to all draft laws, starting from 1 September 2006. Should the Government be unable to meet this deadline, there is a risk of slowing down the entire legislative (and consequently – the law approximation) process.

As for the institutional mechanism, the same four ministries that are responsible for inter-ministerial cooperation in European integration matters coordinate the law approximation activities (see above). The general procedure for drafting laws on the Government side is the following: the responsible Ministry drafts the required legislation and then sends it for commenting to all other Ministries. This is done by correspondence only and does not involve any joint meetings. After that, the adjusted version of draft laws (as required) is sent to the Ministry of Justice for the legal expertise. It should be mentioned that the draft legislation coming from other authorities with the legislative initiative are also circulated to all Ministries.

Once this is over, the final version is forwarded to the Prime Minister's Office, which performs the final checking and rubberstamping on the Government side. MFAEI currently does not have any formal role in law approximation. However, there have been plans to establish an integrated public administration framework for law approximation with the following distribution of competences. EID would be at the centre of the legal approximation process and would be empowered to:

- § Coordinate the inter-ministerial working groups entrusted with the review and analysis of the national and Community legislation;
- § Prepare and update the National Program for the Adoption of the *Acquis* (NPAA);
- § Give a review on draft legislative acts submitted for approximation purposes;
- § Coordinate inclusion of NPAA measures in the legislative and work programmes of the Government and Parliament;
- § Assess the progress in law approximation, including by means of a computerised and publicly accessible database. It would then submit quarterly reports to the Government and Parliament;

Hence, a specialised unit responsible for coordinating the legal approximation process would be set up within EID. It would manage the entire process, including relations with the

Parliament. The European integration units of each Ministry and department would add law approximation tasks to their general European integration activities. Each Minister and department Director would appoint a deputy responsible for coordinating the law approximation process. The Government Ministries and departments would be responsible for drafting amendments to the existing legislation or draft laws on the basis of conclusions drawn by the law harmonisation working groups.

In December 2005, a new EC technical assistance project of €3.5 million in support of PCA and EUMAP implementation started and it will run until May 2008. The main beneficiary of this project is MFAEI and its main topic – law approximation. Other beneficiaries include the Ministry of Justice and the Ministry of Economy and Trade, while the Parliament is considered to be a key partner. As part of this project, the following results should be achieved:

- § National EUMAP implementation strategy in place;
- § Policy and legal approximation advanced in line with EUMAP;
- § Capacity to implement PCA and EUMAP increased; and
- § Public awareness strengthened.

The project aims at structuring the procedure for law approximation and developing links to the economic sector, mainly through the tool of impact assessments. The project experts agree with the uselessness of transposing all EC law only for the sake of having done so. The economic considerations in approximating Moldovan legislation to the *acquis* have to take precedence. Hence, the project envisages to formulate a clear approach for a policy and legal approximation system and strategy, and to assist with setting it up, including an approximation information system. The latter should give an overview of the approximation process at any point in time, so that each draft law can be monitored from the initial stages up until it reaches the Parliament.

However, prior to drafting a general law approximation programme, the project experts call for an initial plan on approximating priority legislation and carrying out complementary activities before 2007 to reinforce the process of effective economic reform. The priorities established by the EUMAP implementation strategy are expected to respond to the needs of Moldova as defined in the Economic Growth and Poverty Reduction Strategy for 2004-2006, also taking into account the political agenda and the implementation capacity of the public administration.

The project will also develop and implement a specific monitoring system for EUMAP implementation and propose a global public awareness strategy, including a development plan for the European Documentation Centre. Capacity building activities will primarily target the Legal Units of the Ministries and aim at increasing the Government capacity to draft legislation in compliance with EC law. The PCA project experts see the following three main challenges:

- § The Prime Minister's Office and the Ministry of Justice need to strengthen their capacity;
- § All Ministries have to be able to perform the law approximation activities themselves; and
- § Policy development has to be strengthened to ensure strategic thinking.

In February 2006, MFAEI issued a draft Concept Paper on the approach towards EU-Moldovan law harmonisation, calling for a stronger legal basis and a more structured work programme. The project experts share these goals. This Concept Paper also covers a

mechanism for inter-ministerial cooperation and it will be submitted to the Parliament for consideration as soon as the initiated adjustments to the laws on legislative and normative acts (see above) are adopted. The Parliament expects to receive this concept before 1 September 2006.

It is understood that the said mechanism would envisage two levels on the Government side for checking the compliance of draft legislation with EC law: first, the Ministry of Justice and then the Government as a whole. MFAEI currently intends to perform the latter role itself, whereby the future approximation information system would also be based at EID. However, the EC experts suggested that it could have recently changed its opinion and would agree to the Ministry of Justice running this system instead, although they could not confirm if the Ministry of Justice would be ready to assume this task.

In any case, MFAEI would still retain the responsibility for the final screening of the approximated draft laws, followed by forwarding them to the Government and, finally, monitoring their adoption process in the Parliament. But the system could still turn out to be different, as it is not finalised yet: e.g. it could be the Ministry of Justice that forwards the final version of draft laws to the Government after MFAEI has approved them.

## Chapter III. Current Situation at the Parliament

### General overview

There are 101 Members of Parliament in Moldova elected for a period of four years and the latest elections took place on 6 March 2005. Currently, the Communist Party has an absolute majority with 56 seats, while the remaining 45 mandates are split amongst opposition factions. On 23 March 2005, all parliamentary factions adopted a common Declaration on Political Partnership for 2005-2009 to achieve the objectives of European integration.

This is based on the assumption that further development of Moldova can only be assured through gradual European integration, peaceful and democratic resolution of the Transnistrian conflict, effective functioning of the democratic institutions and protection of national minority rights. Implementation of these core tasks, in turn, depends on responsible cooperation with the opposition, stable domestic political life, free mass media and respect for the independence of Moldova. Among other things, the directions of this political partnership include:

- § Concerted diplomatic, legislative and political efforts, as well as civic initiatives to implement EUMAP;
- § Joint efforts to achieve accession of Moldova to the European Community; and
- § Harmonising the national legislation with EC law in the field of free movement of goods, capital, services and labour.

However, some Members of Parliament from the opposition question the commitment of the majority within the ruling Communist Party to this Declaration. On the other hand, it is clear that the leading figures of the Communist Party support this Declaration. Otherwise, the recent pro-European developments in Moldova would not have been possible.

On 24 November 2005, the Parliament adopted the Decision No. 300-XVI, establishing its Legislative Programme for 2005-2009. It was drafted on the basis of the priorities set out in the Government Action Programme for 2005-2009 (entitled “Modernisation of the country – people’s welfare”), the Economic Growth and Poverty Reduction Strategy for 2004-2006, EUMAP (thus, also the 2006-2007 National Programme to Implement EUMAP), the 2005-2015 National Programme for regional development (entitled “Moldovan village”) and the 2004-2008 National Action Plan in the field of human rights.

The Government drafted the Legislative Programme in response to an earlier Parliament’s Decision (No. 122-XVI of 16 June 2005), which called for organising the process of Moldovan-EU law approximation as stipulated by Article 50 of the PCA (see above). The Government was initially asked to deliver this programme within two months. The Parliament, in turn, obliged itself to review legislative initiatives on the organisation and regulatory framework of the law approximation process, as well as on the general criteria for assessing the compatibility with EC law of the Moldovan legislation in force.

The Legislative Programme is structured into three parts: 107 new laws to be drafted; 88 laws to be amended to bring it in line with EC law; and 38 international treaties and conventions that

need to be ratified (this part is exclusively based on EUMAP). It identifies the responsible institution and the deadline for each legislative activity. Thus, the Legislative Programme can be considered to contain certain prioritisation of the law approximation activities until 2009.

Should it become necessary, the Government has to submit to the Parliament any changes or adjustments to this programme. In this respect, the PCA experts (see above) have confirmed their intention to enhance the quality of the Legislative Programme by improving its coherence and distinguishing between binding and voluntary measures.

The current legislature of the Moldovan Parliament has established nine standing committees. Although the Rules of Procedure of the Parliament do not require all draft legislation to be submitted for opinion to all parliamentary committees, this has generally been the practice<sup>6</sup>. Despite the fact that the committees do not have separate budgets, they have secretariats with two to seven staff members (35 in total). It is the Speaker who takes the main decisions concerning the Parliament budget.

The Members of Parliament do not have individual assistants, while committee staff members are often politically engaged. This exacerbates the technical support problems of the opposition representatives even further. According to some Members of Parliament, the Parliament officials tend to spend more time on assisting those Members of Parliament that come from the ruling Communist Party either because they belong to the same party, or simply because they are worried about the safety of their employment after the next elections (all employment contracts are signed for the period of one legislature and can be renewed for the next).

Currently, the Parliament is in the process of amending its Rules of Procedure, whereby the representation and rights of the parliamentary opposition will be strengthened. In addition, a new requirement could also be introduced concerning the law approximation process – namely, that FPEIC would have the right for final approval of the approximated legislation after its adoption by the plenary and before the Speaker has signed them.

### **Committee on Foreign Policy and European Integration**

Although a special parliamentary Committee on European Integration was established during the previous legislature<sup>7</sup>, the current parliament decided to establish a joint Committee on Foreign Policy and European Integration on 31 March 2005. It is comprised of eleven members, proportionally representing the weight of parliamentary factions. Three of them are also Chairmen of their factions. FPEIC has three members of staff, each of whom has a responsibility for working with a specific Ministry.

According to the Parliament Decision No. 17-XVI of 8 April 2005, FPEIC has competence in matters related to foreign policy programmes and international agreements, coordination of the EU-Moldovan law harmonisation and control of EUMAP implementation, as well as cooperation with parliaments of other countries.

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<sup>6</sup> See Article 46 of the Law No. 797 of 2 April 1996 on the Adoption of the Parliament's Rules of Procedure.

<sup>7</sup> See Decision of the Parliament of Moldova No. 84-XV of 28 February 2003.

According to FPEIC staff, it is also expected to give an opinion on the compliance of every draft law with the *acquis*. However, FPEIC staff is not qualified to do this, especially since the explanatory memoranda of the draft legislation submitted to the Parliament are mostly limited to its impact on the State budget. There is generally no assessment of the impact of implementing such a law in the respective sector. No parliamentary body follows implementation of the adopted laws either. Until now, the FPEIC practice has been to ask the Ministry of Justice or other Ministries for a legal opinion on compliance of this or that law with the *acquis*. Some draft laws are also sent for expertise to the Council of Europe.

The capacity of FPEIC staff is also impeded by the fact that they have to produce an opinion on every single draft law that the Parliament receives (see above). This takes up a disproportionate amount of their time and does not allow them to devote all their efforts to their main duties. According to FPEIC staff, the capacity problem could only be solved through either splitting the foreign affairs and European integration functions, or through hiring additional staff. However, the latter would only be possible if FPEIC were charged with additional tasks (for example, if the Rules of Procedure stipulated that FPEIC has to scrutinise all legislation that needs to be approximated to EC law).

The need to scrutinise all draft laws burdens not only FPEIC staff, but also the members. Some of them have suggested that the main debates in the committee are held on draft legislation that is very distant to the foreign policy and European integration field. As already mentioned, the current advisers spend most of their time on technical tasks. To make things worse, no up-to-date information on EU affairs is available at the Parliament library either. Thus, FPEIC members are rather left to themselves when it comes to European affairs expertise.

FPEIC ensures cooperation between the Parliament and the Government in European affairs, but communication with MFAEI has been very difficult, according to some FPEIC members. Cooperation is principally performed through hearings of individual Ministers on EUMAP implementation in their respective field of competence. During the last legislature (2001-2005), six such hearings were organised, while three more have taken place since the latest elections in 2005. The last such hearing took place on 17 May 2006 when the Minister of Ecology appeared before FPEIC. Foreign ambassadors and an MFAEI representative are also invited to these hearings, but the latter very rarely attends.

The procedure of these hearings is as follows: a Minister presents a report, which is followed by a question and answer session. At the end of these hearings, FPEIC issues a decision to the respective Ministry, including recommendations on what has to be accomplished in the near future. These decisions are sent to the Speaker, the Government, MFAEI and, sometimes, also to the President of Moldova. According to some FPEIC members, these hearings are superficial and represent rather a formality. The main problem is that the Government representatives are not well prepared, while the most critical questions mainly come from the opposition.

Twice a year, the Minister of Foreign Affairs and European Integration also gives a general report on EUMAP implementation to the Parliament as a whole at its plenary meeting. The Standing Bureau of the Parliament decides on calling for such meetings and the latest one took place on 11 May 2006 (preceded by another one in October 2005).



According to the Chairman of FPEIC, implementation of the Legislative Programme for 2005-2009 is lagging behind and FPEIC has currently no tools at its disposal to ensure timely delivery of draft legislation by the Government. Besides, it is currently the Chairman alone who monitors if the deadlines of the Legislative Programme are respected, not the entire FPEIC. In general, the Parliament is having trouble in getting the required draft legislation from the Government, which lacks the needed capacity. Therefore, the Parliament often resorts to drafting the necessary laws itself.

Only a few of the currently 14 members of the Moldovan Delegation to the EU-Moldovan PCC are also FPEIC members. The Chairman of FPEIC does not count amongst them, although he is represented in NCEI. Furthermore, Deputy Speaker of the Parliament is represented in both NCEI and the Moldovan Delegation to the EU-Moldovan PCC, but he is not an FPEIC member. Therefore, FPEIC provides briefing notes to the Moldovan Delegation of the EU-Moldovan PCC to ensure that there is consistency between its own work and that of the PCC.

It is the parliamentary factions that nominate members of the committees and delegations. The Speaker approves the inter-parliamentary delegations on the basis of these lists and after consultations with the factions. On the contrary, there is no evidence that the Parliament is actively represented in NCEI and the Chairman of FPEIC evaluates its membership rather as a formality. It is understood that FPEIC has rather weak interaction with other parliamentary committees.

## **Legal Directorate**

The tasks of the Legal Directorate that are related to the legislative process, include:

- § Analysing and endorsing legislative initiatives submitted to the Parliament;
- § Analysing and endorsing the submitted amendments (upon request from the Chairmen of parliamentary committees);
- § Countersigning the adopted legislative acts before the Speaker signs them;
- § Legislative drafting and its coordination;
- § Advising Members of Parliament, parliamentary committees and factions on legal issues directly related to their legislative capacity; and
- § Identifying foreign legislation sources and preparing information on other countries' experience in an area to be regulated by a draft law (upon request).

The statute of the Legal Directorate already requires it to check the compliance of draft legislation with EC law to facilitate law harmonisation. The Directorate has a total of 24 staff members, two to three of whom are performing technical support functions. Thus, the Directorate has quite a substantial weight in the legislative process when compared to the total committee staff of 35. Approximately seven to ten of its employees have at least a working knowledge of one foreign language (mainly English or French). There is a separate International and Community Law Unit, while other lawyers each specialise in a specific field.

A year ago, the Directorate was restructured into public and private law sections (each with its own Head), subdivided as follows:

(1) Public law section (Head)

- Constitutional and administrative law (four lawyers)
- Public order, law enforcement bodies, systematisation and filing (five lawyers)
- Financial, tax and customs legislation (three lawyers)
- International and EC law (one lawyer)

(2) Private law section (Head)

- Civil, commercial economic and environmental legislation (four lawyers)
- Labour, social protection, health and family legislation (two lawyers)

Although it is required by law, the Head of the Legal Directorate confirmed that no impact assessments are done for draft legislation. First, the Directorate checks the compliance of the received draft laws with the so-called technical requirements (e.g. compliance with the Constitution and the current legal order, accompanying impact assessments etc.) and then issues its opinion. It is understood that quite often a negative opinion is issued, including on draft legislation submitted by Members of Parliament.

Once the requirement for including the assessment of EC law compliance into the explanatory memoranda is operational (see above), the Directorate will also have to check if that requirement is respected. According to the Head of the Directorate, the most important task is now to develop sound methodology for performing this task. The next significant role of the Directorate is to ensure that no contradictory measures are added to draft laws during their adoption at the Parliament.

Over the last six months, the lawyers of the Directorate have been studying EC law through seminars, training courses and study visits organised with the support of the NGO sector and foreign donors. Further training is envisaged on foreign language and IT skills in the framework of a UNDP project. However, there are some problems with the staffing, since two employees are going on a maternity leave and two other are already on such a leave. These lawyers are substituted by contract staff, but up to two years may actually be needed to train them to the same level as the permanent employees.



## Chapter IV. Conclusions and Recommendations

### **General conclusions**

The main conclusion to be drawn from the current review of the Parliament's involvement in EU-Moldova relations is that of limited activity. This is largely due to the fact that not much law approximation activity has been taking place on the Government side, owing to lack of the required capacity. The Government is now in the process of organising its coordination mechanisms and possibly some systematic work could begin in the near future. However, it is crucial for Moldova to build and develop its own capacity in European integration matters (mainly, law approximation and its implementation) rather than continue relying on the assistance of foreign experts.

Sustainability of the Moldovan European integration efforts can only be achieved through continuity, for which local expertise and capacity is a 'must'. A successful central public administration reform could contribute significantly to this process. The Parliament now has to make a decision without delay on how it will organise its involvement in EU-Moldova relations, as well as on the specific way to adapt its structures to the chosen role. Once that decision has been made, the donors would have a solid basis for moving ahead with institutional capacity building in the individual structural units of the Parliament. The urgency stems from the fact that the Parliament has to be ready to interact with the Government as soon as the latter starts systematic work on law approximation.

According to the *Centre for European Policy Studies*, the cost of non-compliance for Moldova is significant and would, first of all, mean the loss of existing export markets (e.g. Romania) and the inability to expand into new markets (South-Eastern European countries and the EU). In addition, adoption of EU standards would improve the general policy framework of Moldova, thereby lowering investment risk and enhancing private sector growth<sup>8</sup>.

However, the key challenge is to determine the priority areas for law approximation, its sequence and the extent. Unlike those Central and Eastern European countries that recently joined the EU, Moldova can be selective and adopt EC law gradually. This can be considered an advantage, which has to be exploited. The paper argues that the degree and pace of law approximation has to be driven by the needs of the Moldovan economy (including the trade potential of Moldova) and not by the *acquis* itself.

The law approximation agenda could move along such economic integration scenarios like achieving a functioning market economy, benefiting from EU trade preferences, preparing for a free trade agreement with the EU (the PCA project experts even produced a corresponding feasibility study) and, thus, gradually moving towards obtaining a stake in the EU Internal Market. A purely legal approach to this process (i.e. adopting the entire *acquis* chapter by chapter) could lead to reduced economic flexibility, creating significant constraints for the

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<sup>8</sup> See Working Document No. 238 of March 2006 on Moldova's convergence with EC law.

economy. In this respect, the paper suggests carrying out assessment of regulatory impact on the economy prior to embarking on the law approximation exercise in any given area.

One of the key conclusions of the *Centre for European Policy Studies* is that the donor-driven approach in law approximation (the method used up to now) will not bring the expected results due its fragmented nature. Convergence with EC law in the priority areas needs to become an integral part of the internal decision-making and legislative agenda. Adoption and implementation of the EC law requires substantial institutional capacity, efficient coordination and considerable investment.

Finally, the combination of a practice whereby all committees deal with all draft legislation on the one hand, and the limited resources of the Parliament on the other, hampers the ability of the Members of Parliament to perform their duties in a qualitative way. Moreover, this practice eliminates the entire logic of having specialised parliamentary committees (i.e. the one of specialisation and distribution of work).

## **Recommendations**

The Parliament is the supreme decision-making body of Moldova and as such should play an active role in driving the European integration agenda forward. It should develop strategic relationship with the Government on public policy definition. Once the strategic decision is taken, its implementation should go to the technical level. The Parliament should not only wait until it can react to Government activities, but it should itself actively call for Government action in the priority areas. It should also ensure that the Government actually has the necessary resources (e.g. additional budget allocations) to perform its European integration tasks.

The Parliament can play a more decisive role in EU-Moldova relations at the following four principal levels:

- § Shaping and driving forward the EU-Moldova relations, including the setting of priorities and political oversight of the Government actions to implement them;
- § Promoting the EU-Moldovan law approximation process;
- § Monitoring implementation of the approximated laws; and
- § Communicating the European integration process to the general public.

The first three roles could imply involvement of the following parliamentary bodies: FPEIC, the Legal Directorate and the legislative committees (eight in total). The fourth level – communication with the public – could also be left with the Government. However, the experience of other countries shows that sometimes the public has more trust in the Parliament than in the Government. This is not least facilitated by the fact that the individual Members of Parliament are much more accessible to their electorate than Government officials. Thus, the Parliament may want to consider taking up this role, as well.

Perhaps a good way to develop this informational role could be first by establishing an internal EU information centre at the Parliament destined to serve the Members of Parliament and its

staff. The Parliament does not currently have such information base and it would require a certain level of investment. However, this should be seen as necessary for building capacity in European integration matters at the Parliament. It would also provide learning opportunities for Members of Parliament, most of whom still know very little about the EU. More informed Members would be able to explain better all the advantages and disadvantages of European integration to their voters. The decision on whether the Parliament itself should get involved in raising the general public awareness could be taken at a later stage, based on the experience gathered in the process of developing this internal EU information centre.

### Potential role of FPEIC

As part of the above approach, FPEIC could perform the following tasks:

- § Approving priorities for EU-Moldova relations (e.g. on the basis of proposals from the specialised committees) prior to negotiations with the EU;
- § Monitoring and promoting implementation of the agreed priorities on the basis of an overarching Government work programme (e.g. the 2006-2007 National Programme to Implement the EU-Moldova Action Plan); and
- § Monitoring and promoting law approximation on the basis of the Parliament's Legislative Programme (e.g. for the period 2005-2009).

It is very important for the Parliament to make its contribution to the process of formulating priorities for relations of Moldova with the EU, including the priority areas for law approximation. The Parliament has to ensure that these priorities are agreed at the political level and that they enjoy support of the general public, as well as that of the public administration. Without such support, implementation of these priorities would be heavily burdened and could even risk changing the behaviour of voters in the next elections. The need to provide for a strong link between the political and administrative levels should not be underestimated either.

The main counterpart of FPEIC on the Government side has to be MFAEI (and possibly the Ministry of Justice on law approximation). FPEIC should coordinate the process of priority setting with the legislative committees (see below). Once this is done, it could compile them into one coherent document and approve it as a mandate for MFAEI in negotiations with the EU. This document could also be done at a plenary, following a debate in the presence of Government representatives. For example, this mechanism could be used once a new legal form of relations is negotiated upon expiry of the current PCA, as well as during adaptations to the current EUMAP or negotiations on a new political document of similar nature.

Following a final agreement with the EU, the Parliament has to request the Government to draw up an overarching work programme on the basis of the agreed priorities. Such programme should include specific deadlines, the responsible institutions (such as the current 2006-2007 National Programme to Implement the EU-Moldova Action Plan) and clear indicators of achievement. According to experts of two NGOs (*Expert-Grup* and *Adept*) in their 2<sup>nd</sup> issue of *Euromonitor* (April 2006), through which they intend to monitor EUMAP implementation, the lack of clear indicators in the latter complicates a comprehensive and objective monitoring of its implementation.

Therefore, FPEIC should not take EUMAP itself as the basis for monitoring, but rather the Government programme for its implementation. Implementation of this programme should be reviewed at regular intervals during FPEIC meetings. In case of problems, FPEIC should request from the responsible institutions an official explanation and a clear action plan on how the problems would be tackled.

As for the law approximation tasks, according to the PCA project experts, several draft laws are currently stuck in the Parliament. Head of the European Commission Delegation in Moldova also confirmed that there are problems with the adoption of some significant laws in the Parliament (e.g. the law on mass media). Therefore, FPEIC should ensure that the Government submits draft legislation in good time to allow for its adoption in accordance with the deadlines specified in the Legislative Programme. It should also ensure that the pace of the adoption process inside the Parliament respects those deadlines, as well. This should not only be a matter for the Chairman alone, but FPEIC should review implementation of the Legislative Programme at its meetings.

In case of problems, FPEIC should work closely with the legislative committees and the responsible institutions on the Government side. Thus, FPEIC could promote the law approximation process by monitoring the submission and adoption process of the approximated laws and by interacting with the legislative committees in case of problems inside the Parliament. It is, therefore, indispensable for FPEIC to establish close cooperation with the legislative committees of the Parliament. Should it be the Government that does not submit the necessary draft legislation on time, FPEIC should request the responsible service to provide an explanation together with a clear action plan on how to resolve this problem.

### **Potential role of the Legal Directorate**

Building on the current tasks of the Legal Directorate in the legislative process, it could perform the following duties:

- § General verification of the submitted draft legislation on conformity with EC law;
- § Similar verification of the amendments adopted by the responsible committee; and
- § Final verification of the adopted laws.

The Parliament should not attempt to establish a law approximation capacity parallel to that of the Government. It should be the Government that drafts and submits approximated legislation to the Parliament, which normally should already be in full compliance with EC law. The Legal Directorate should merely play a control function and ensure that the Members of Parliament do not adopt amendments contradicting EC law. Neither should the Parliament diffuse its internal capacity in EC law - all legal expertise should be concentrated in the Legal Directorate.

Advisers of the committees should have general knowledge of EC law principles, but they should not be the ones performing the legal expertise on the compliance of draft legislation with the *acquis*. Advisers of the legislative committees should only be able to spot a possible risk of incompliance and inform the members of their committee. Should the members adopt

those amendments regardless, the advisers should alert FPEIC and the Legal Directorate. FPEIC advisers, in turn, should alert the Legal Directorate and the respective committee. This approach especially makes sense, since very few of the committee staff are actually lawyers capable of performing the technical process of law approximation.

In both cases, it should be the Legal Directorate that performs the legal expertise on the basis of a request either from FPEIC Chairman or the Chairman of the responsible committee. The Legal Directorate should warn the respective committee in the case of non-compliance. However, it would probably not be productive to ask the Legal Directorate to analyse each and every amendment that risks being in contradiction with EC law. The best system could be to send for expertise only those amendments that are already adopted by the responsible committee and that risk contradicting EC law. This should still give the Legal Directorate enough time to give a negative opinion to the vote in plenary.

### **Potential role of the legislative committees**

The legislative committees of the Parliament could assume the following duties:

- § Setting priorities for the EU-Moldova relations in the respective sector;
- § Evaluating the impact of implementing certain EU legal aspects in the respective sector prior to deciding on the extent and pace of law approximation;
- § Avoiding amendments contradicting EC law in those areas where the decision on approximation has been taken; and
- § Monitoring implementation of the approximated laws in the respective sector.

The legislative committees should each contribute to the definition of priorities for the EU-Moldova relations in their field of competence. The committees should request their respective counterpart Ministries to prepare a corresponding proposal, which should then be debated at a committee meeting. Once the political agreement on the priorities for the sector is reached (amending or not the Ministry proposal), the approved priorities should be sent to FPEIC for inclusion into an overall document, listing the priorities in all sectors (see above).

As already suggested, the committee staff should not attempt to play any direct role in law approximation, but only perform a monitoring function to be able to alert FPEIC and the Legal Directorate in case of perceived problems. More importantly, Committee advisers should analyse the impact on the respective sector of approximating a certain law to EC legislation and implementing it. The general impact assessment of approximating certain laws should ideally take place already at the stage of priority setting referred to above, possibly on the basis of a study provided by the responsible Ministry. This background work should enable the members of the respective committee to formulate a political decision, taking into account its wider implications on the society.

Finally, the legislative committees could assume a role in monitoring implementation of the approximated legislation on the basis of reports by the responsible Ministries and central public administration bodies. Either alternatively or in parallel, FPEIC could also perform this task at an aggregate cross-sector level, possibly on the basis of reports by the Ministry of Justice as the main Government institution responsible for law approximation.

## Annex I: List of Interviews

<i>Date</i>	<i>Person and Title</i>	<i>Institution</i>
15.05.2006.	<p>Ms Daniela CUJBA Head of Unit for Political Cooperation with the EU, EID</p> <p>Mr Veaceslav PITUSCAN Head of Unit for Economic Relations with the EU, Assistance and Sector-based Coordination, EID</p> <p>Ms Corina COJOCARU Adviser to the Minister of Foreign Affairs and European Integration</p> <p>Mr Lilian MORARU Head of Unit for EU Law, International Law Department</p> <p>Mr Iulian A. GROZA Unit for Political Cooperation with the EU, EID</p> <p>Ms Natalia BOBOSOVSKI Unit for Economic Relations with the EU, EID</p>	MFAEI
16.05.2006.	Mr Sergiu STATI (MP) FPEIC Chairman (also on 19.05.2006. and 05.06.2006.)	Parliament
	<p>Mr Alexandru SIMIONOV</p> <p>Ms Oxana GOJAN</p> <p>Ms Victoria PARFENTIEV</p> <p>Advisers at FPEIC</p>	Parliament
	<p>Ms Steliana NEDERA Assistant to Resident Representative</p> <p>Mr Vasile FILATOV Governance Team Leader</p> <p>Ms Angela DUMITRASCO Programme Associate</p> <p>Mr Iulian RUSU Project Manager</p> <p>Ms Cornelia VINTILOVA Project Consultant</p> <p>(representatives of UNPD Moldova were met also on other mission days)</p>	UNDP Moldova
	Ms Vitalia PAVLICENCO (MP)	Parliament

	Deputy Chairman of FPEIC	
<b>Date</b>	<b>Person and Title</b>	<b>Institution</b>
	Mr Nicos ECONOMOU Team Leader  Mr Alexander CORDAHI Key Legal Expert (also on 18.05.2006.)  Mr Ioannis ANTHOPOULOS Lawyer	EC PCA technical assistance project
17.05.2006.	Mr Oleg SEREBRIAN (MP) FPEIC member	Parliament
	Ms Mariana ZOLOTCO Adviser to the Speaker of the Parliament	Parliament
	Mr Vlad CUBREACOV (MP) FPEIC member	Parliament
	Mr Dumitru DIACOV (MP) FPEIC member	Parliament
	Ms Galina OSADCII Adviser at the Committee on Economy, Budget and Finance	Parliament
	Ms Adelaida BUDEANU Mr Alexandru CIORICI Advisers at the Legal Committee	Parliament
18.05.2006.	Dr Valeriu GHEORGHIU Programme Director	NGO Institute for Public Policy
19.05.2006.	Mr Ion CREANGĂ Head of the Legal Directorate	Parliament
	Mr Cesare de MONTIS Head of Delegation	European Commission Delegation to Moldova
05.06.2006.	Mr Marian LUPU (MP) Speaker of the Parliament	Parliament
	Mr Iurie Rosca (MP) Deputy Speaker of the Parliament	Parliament
06.06.2006.	Mr Vladimir TURCAN (MP)	Parliament

	Chairman of the Legal Committee	
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## Annex II: List of the Consulted Documents

<u><i>Title</i></u>	<u><i>Author</i></u>	<u><i>Date</i></u>
Assessment Report on Moldovan Parliament	Geoff Dubrow, Parliamentary Centre	24/12/2004
Constitution of the Republic of Moldova	N/A	29/07/1994
Decision of the Parliament No. 122-XVI on the Drafting of a Legislative Programme for 2005-2009	Parliament of Moldova	16/06/2005
Decision of the Parliament No. 12-XVI on the Approval of the Composition of the Standing Committees	Parliament of Moldova	31/03/2005
Decision of the Parliament No. 17-XVI on the Fields of Competence of the Standing Committees	Parliament of Moldova	08/04/2005
Decision of the Parliament No. 300-XVI on the Legislative Programme for 2005-2009	Parliament of Moldova	24/11/2005
EU/Moldova Action Plan	Government of Moldova/European Commission	22/02/2005
EU-Moldova Action Plan: Negotiations and Implementation	Dr Valeriu Gheorghiu, Institute for Public Policy	03/11/2005
Euromonitor, 2 <sup>nd</sup> issue. EU – Republic of Moldova Action Plan: Assessment of Progress in the 1 <sup>st</sup> Quarter of 2006	Expert-Grup/Adept	April 2006
Government Decision No. 1402 on the Strategy for Central Public Administration Reform in the Republic of Moldova	Government of Moldova	30/12/2005
Government Decree No. 786 on the Coordination of Inter-Ministerial Activities in Implementing the European Integration Policy of the Republic of Moldova	Government of Moldova	01/08/2005

<u><i>Title</i></u>	<u><i>Author</i></u>	<u><i>Date</i></u>
Implementation Plan of the Strategy for Central Public Administration Reform in the Republic of Moldova (Annex No. 2 to the Government Decision No. 1402)	Government of Moldova	30/12/2005
Inception Report: Support to PCA and WTO Implementation and to EU/Moldova ENP Action Plan	European Profiles/British Council/Altair Asesores	31/03/2006
Internal Report on Semestrial Evaluation of the EU-Moldova Action Plan Implementation	Government of Moldova	September 2005
Law Nr. 797 on the Adoption of the Parliament's Rules of Procedure	Parliament of Moldova	02/04/1996
Moldova's Convergence with the <i>Acquis</i> : A Pro-Growth and Pro-Integration Strategy	Oxana Gutu, Centre for European Policy Studies	March 2006
Presidential Decree No. 957-III on the Establishment of a National Committee for European Integration	President of Moldova	13/11/2002
Project Description: Strengthening Institutional Capacity of the Parliament of the Republic of Moldova	Government of Moldova/UNDP	N/A
Regulation on the Legal Directorate of the Parliament Apparatus	Parliament of Moldova	N/A
Report of the Government of the Republic of Moldova on the Implementation of the EU-Moldova Action Plan	Government of Moldova	October 2005
Short-term Priorities for the EU-Moldova Action Plan Implementation	Government of Moldova	February 2005
The Declaration on Political Partnership to Achieve the Objectives of the European Integration	Parliamentary factions of Moldova	23/03/2005
The Functional Review of the Administration of the Parliament of the Republic of Moldova	Corporate & Public Management Consulting Group	19/05/2006