



*ADEPT and EXPERT-GRUP*

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Implementation of reforms initiated according  
to the EU-Moldova Plan,  
Assessment of progress in July-September 2011

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*Implemented by the Association for Participatory Democracy ADEPT and the independent think tank Expert-Grup*

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**Note:** *The authors have drafted this report with goodwill and good intentions. The authors are solely responsible for their opinions and conclusions, which are not necessarily shared by the Soros-Moldova Foundation, Moldovan Government or other institutions mentioned in this report.*

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## INTRODUCTION

The Republic of Moldova is an EU partner in the framework of the European Neighbourhood Policy (ENP). In the ENP framework the European Union – Republic of Moldova Action Plan (EUMAP) was signed in 2005 for a three-year term and was based on the Partnership and Cooperation Agreement (PCA). The EUMAP term is formally over, but the plan is relevant so far, as EU will assist Moldova under the EUMAP until 2013.

On January 12, 2010, the Republic of Moldova and the European Union pledged to negotiate an ambitious document, an Association Agreement to replace the PCA. In parallel, EU authorities negotiated and completed in late 2010 with the Moldovan Government the Visa Liberalisation Action Plan,<sup>1</sup> which contains 4 important blocs: security of documents; illegal immigration; rule of law and security; foreign relations and fundamental rights. Before the signing of the new legal document on EU-Moldova relations, following priorities and reform commitments needed to meet political criteria of implementation of EU standards and principles are in force: human rights; democratic standards; independent and efficient justice; probity of governance, administrative capacities and anticorruption fight, etc.

One part of the Association Agreement will address an eventual Deep and Comprehensive Free Trade Area (DCFTA) and the European Union submitted a set of recommendations to the Moldovan executive, which were transposed into Government Decision No. 1125 of 14 December 2010 concerning the approval of Moldova's Action Plan on Fulfilment of the EU Recommendations for the establishment of a Deep and Comprehensive Free Trade Area between the Republic of Moldova and the European Union."<sup>2</sup>

The developers of Euromonitor, ADEPT and EXPERT-GRUP, are monitoring the following area<sup>3</sup>:

1. **Implementation by Moldovan authorities of reforms in priority areas conventionally described as "political": protection and implementation of human rights; independent and efficient justice; governance reform and anticorruption fight; Transnistrian settlement.**
2. **Implementation of the Action Plan concerning the Fulfilment of the EU Recommendations, opportunities and barriers to the preparation of Moldova to negotiate a DCFTA and progresses made by Moldova.**

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<sup>1</sup> Moldovan Government approved a national programme concerning the implementation of the Visa Liberalisation Action Plan (GD 122/04.03.2011).

<sup>2</sup> Hereinafter Action Plan concerning the Fulfilment of the EU Recommendations.

<sup>3</sup> In default of a new ordinate document, developers decided to focus the monitoring on priorities of the Governance Programme for 2011-2014, and the first report covers among others the priorities set in accordance with the matrix of the Action Plan „Priority reform actions of the Republic of Moldova – Key measures until June 2011”, <http://www.mfa.gov.md/img/docs/implementation-tool-matrix-en.pdf>.

## **Section I. MONITORING THE IMPLEMENTATION OF REFORMS IN PRIORITY AREAS (POLITICAL)**

### **Area 1: PROTECTION AND IMPLEMENTATION OF HUMAN RIGHTS**

#### *Analysis of current situation*

Human rights in Moldova experienced a contradictory evolution; while some rights such as freedom of conviction and religion, freedom of assembly progressed, the situation relating to domestic violence, trafficking in persons, intolerance and discrimination on reasons of gender, health, age, social status did not change and stays problematical so far, despite efforts of public authorities. The same contradictory evolution was observed at legislative level. The National Action Plan on Human Rights was approved after an ample process of public consultations, but no comprehensive regulatory framework was adopted so far to bring efficient procedures against discrimination and to protect the right to damages for victims of discrimination.

The perception of impunity for violation of human rights still persists in society.<sup>4</sup> Inefficient investigation of torture, domestic violence, trafficking in persons does not encourage the condemnation of the guilty, fuels this state of things and reduces the trust of population in justice and law enforcement organs.

Successes related to approval of a legal framework aimed to encourage respect for human rights do not bring major accomplishments in terms of enforcement of these regulations; they are either ignored by competent organs or their enforcement is faulty. The lack of efficient mechanisms to apply the effective legislation, shortage of funds and human resources, corruption of public functionaries and law enforcement bodies, politicisation of state institutions are major obstacles to human rights.

#### *Monitoring of specific actions*

The Government approved in July an action plan to support the Roma in Moldova. The action plan was worked out with the participation of civil society. As well, a new composition of the Advisory Board of the National Mechanism for the Prevention of Torture was approved. The selection procedure was generally transparent, but the Parliamentary Commission for Human Rights and Interethnic Relations which approved members of the Advisory Board could not make acquaintance to candidates at a sitting. Public consultations with the participation of civil society and religious cults took place in September to discuss the draft antidiscrimination law, which was further published on the website of the Ministry of Justice for public consultation.

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<sup>4</sup> The case of "Ziarul de Garda" (the Guard Newspaper), which the court imposed to pay 500,000 lei to two prosecutors allegedly involved in corruption, is a representative example of fragility of progress made to protect human rights.

**Monitoring table 1. Progress in implementing actions in the area „Respect for human rights and freedoms“<sup>5</sup> planned for the 3<sup>rd</sup> quarter of 2011**

Planned action	Progress / Comments
<b>Ensuring accountability for all reported human rights violations in relation to the events of April 2009</b>	<b>Slow progress.</b> Three policemen were sentenced before the end of September 2011 on “excess of authority” charges (Article 328 (2) (c) CP) in connection with the April 2009 riots, and another two were condemned on “torture” charges (Article 3091 CP), but the indictment was suspended for all of them. <sup>6</sup>
<b>Adopting and starting to implement the revised National Human Rights Action Plan (NHRAP), by ensuring appropriate enforcement, funding and monitoring mechanisms involving civil society.</b>	<b>Partly fulfilled.</b> The Parliament approved on May 12, 2011 the National Human Rights Action Plan (NHRAP) for 2011-2014. The Government is late to set up a commission in charge with the implementation of the NHRAP for 2011–2014, which will coordinate the implementation, will monitor and assess the NHRAP-related progress.
<b>Completing or amending existing legislation to adopt a comprehensive anti-discrimination framework in line with international standards.</b>	<b>No progress.</b> Neither the Parliament nor the Government adopted the antidiscrimination law. The Ministry of Justice initiated consultations with civil society and religious cults regarding the draft law concerned.
<b>Developing a new Action Plan on Roma in close consultation with civil society</b>	<b>Accomplished.</b> The action plan on support for the Roma in Moldova for 2011-2015 was approved under Government Decision No. 494 as of 08.07.2011.
<b>Enhancing significantly public access to draft legislation via relevant government and parliament websites</b>	<b>Slow progress.</b> Although some ministries made progress in publishing draft decisions on their websites, the legislation on decision-making transparency is not respected so far (draft decisions are not published or are published with delay). Access to the website of the Parliament and draft decisions published there is difficult so far. Records of parliamentary sittings are published with delay.
<b>Further consolidate the systematic training of judges and prosecutors on the European Convention on Human Right</b>	<b>Partly fulfilled.</b> Training courses for judges and prosecutors organised by the National Institute of Justice include the mandatory course “ECHR and ECHR jurisprudence” which provides information about ECHR principles, functioning and effects of ECHR judgments.
<b>Ratifying the Rome Statute of the International Criminal Court (ICC) and preparing approval of the necessary legislative amendment</b>	<b>Partly fulfilled.</b> The Parliament ratified the Rome Statute on September 9, 2010, with a reservation clause for Transnistrian region. The ratification of Agreement on Privileges and Immunities of the International Criminal Court and the adjustment of the national legislation to the Rome Statute are pending.
<b>Ratifying Protocol 12 of the European Convention on Human Rights and Fundamental Freedoms<sup>7</sup></b>	<b>Unaccomplished.</b> Moldova did not ratify the ECHR Protocol No. 12 so far.
<b>Intensify efforts, including financial contributions,</b>	<b>Slow progress.</b> Despite renovation and modernisation of penitentiaries, detention

<sup>5</sup> The table was drawn up accordingly to the Action Plan “Priorities of reform actions of the Republic of Moldova – Key measures until June 2011”, <http://www.mfa.gov.md/img/docs/implementation-tool-matrix-en.pdf>, which was extended until the drafting of the EU-Moldova Association Agenda.

<sup>6</sup> Report by the Legal Resource Centre of Moldova.

<sup>7</sup> Protocol No. 12 to ECHR refers to the general prohibition of discrimination.

<b>undertaken in 2010 to modernise the penitentiary institutions, including the transfer of responsibility for pre-trial detention centres from the Ministry of the Interior to the Ministry of Justice</b>	conditions did not improve much, and they are degrading so far in most of prisons. <sup>8</sup> The ampleness of renovation works which are mostly funded from foreign sources is limited so far. Preventive detention facilities were no transferred from the Interior Ministry to the Ministry of Justice. <sup>9</sup>
<b>Ensure that the law on assemblies is duly implemented and the right to freedom of assembly is respected in practice.</b>	<b>Partly fulfilled.</b> The law on public assemblies is respected but so far there are problems relating to security of meetings, which obstructed the LGBT community to organise a public assembly in 2011.
<b>Ensure effective implementation of the National Plan for Gender Equality 2010-2015, following its approval, in close coordination with international partners.</b>	<b>Partly fulfilled.</b> Majority of actions foreseen by the plan for the period concerned were partly accomplished. Major obstacles to the plenary accomplishment of activities are related to limited financial and human resources. Many of planned activities lack a financial coverage.
<b>Enhancing the independence and functioning of the Parliamentary Advocates and the Human Rights Centre, in particular taking corrective measures to ensure compliance with the Paris principles and recommendations formulated by the UN special procedures, UN treaty bodies and the CPT in this regard.</b>	<b>Slow progress.</b> A working group in charge with the modification of the law on ombudsmen was set up in the 1 <sup>st</sup> quarter of 2011. The working group has to present a draft law by the end of 2011. The activity of the working group is not transparent; no information about its activity was made public.

### *Assessment of progress*

A modest progress was observed in the area of human rights, while planned actions are implemented with delay. Actions foreseen by a series of strategies and plans often lack a financial coverage and, therefore, they are partly implemented. The antidiscrimination law was not adopted so far, despite repeated recommendations by international institutions. The antidiscrimination law is one of engagements assumed by Moldova in front of the European Union as part of the Visa Liberalisation Action Plan.

### *Recommendations*

- Speeding up the adoption of the antidiscrimination law which shall include an efficient implementation mechanism and protect rights of victims of discrimination. In order to reduce the tension relating to society's perception of the antidiscrimination law as a "pro-gay" law, an information campaign shall be organised to explain advantages of this law.
- In order to prevent the spreading of the impunity for torture among police organs, the superposition of Articles 309/1 and 328 (2) c) of the Criminal Code shall be prevented and the prescription for torture shall be eliminated, while cases of torture shall be investigated efficiently and the guilty shall be punished under criminal charges.
- Setting up a commission to implement the National Human Rights Action Plan and releasing information about composition of the commission on websites of the Ministry of Justice and State Chancellery.

<sup>8</sup> This situation was stated by the National Torture Preventive Mechanism after regular visits to prisons. Reports on visits are available at <http://www.ombudsman.md/md/rapoarte%20mnpt/>.

<sup>9</sup> The Ministry of Justice argues that this will be done in 2014, when the justice reformation process will be completed.





## Area 2: INDEPENDENT AND EFFICIENT JUSTICE

### *Analysis of current situation*

Justice reform remains top priority, including considering the commitments towards the international donors and external partners. Efforts in this area aimed to work out and adopt some legislative policies to implement the governance programme<sup>10</sup> and focussed on drafting and adopting some strategic documents.<sup>11</sup> Foreign assessments were completed in the period concerned and outlined necessities to intervene in the justice area,<sup>12</sup> while community institutions permanently encouraged efforts of authorities. Relevant authorities undertook activities to ensure coordination of the external assistance in the justice sector<sup>13</sup>, launched new actions to implement strategic documents<sup>14</sup> and intervened to shade light on the cases involving implication of justice exponents in fraudulent cases.<sup>15</sup>

Despite all efforts, the justice reforms stalled bringing no palpable impact, while public trust is constantly dropping<sup>16</sup>. Several developments taking place in the reported period contributed to this decline in the trust regarding the justice and reversed many assessments regarding the effects of the previously announced reforms. Public statements of senior officials and hasty interventions from the part of representatives of the political power have only fed the negative perceptions regarding the situation in the sphere of justice.<sup>17</sup>

Typical negative processes persist in the area of justice:

- Interference and promotion of political interests;
- Delay of previously announced reforms;
- Low responsibility of law enforcement bodies;
- High corruption perception in the system;
- Not-ensured independence of the Prosecutor's Office;
- Poor funding and equipment of the judiciary obstruct the constitutional right to a public trial, reduce the credibility towards the judiciary, affect the solemnity of sittings, the prestige and image of law courts;
- Planned reforms are not sustained by an estimation and concomitant allocation of financial, human and technical resources.

Self-management law institutions outlined the necessity of implementing an independent funding mechanism for the justice system, based on respect for

<sup>10</sup> Law No. 163/22.07.2011 concerning the modification and completion of some legislative acts (dissolution of law courts in charge with economic lawsuits).

<sup>11</sup> The national anticorruption strategy (PD No. 154 as of 21.07.2011) and the national security strategy (PD No. 153 as of 15.07.2011), which contain chapters on justice and related areas, were approved; the draft strategy on reformation of the judiciary for 2011-2015 (GD No. 706 as of 20.09.2011) was completed and approved.

<sup>12</sup> Report by the EU-contracted expert team "Assessment of Rule of Law and Administration of Justice for Sector-Wide Programming, Moldova, September 2011", [http://eeas.europa.eu/delegations/moldova/documents/press\\_corner/md\\_justice\\_final\\_report\\_ro.pdf](http://eeas.europa.eu/delegations/moldova/documents/press_corner/md_justice_final_report_ro.pdf).

<sup>13</sup> Several meetings for coordination of external assistance to the justice sector have been organised by the Ministry of Justice.

<sup>14</sup> Ministry of Justice initiated the drafting of the Action Plan for implementing the Justice Sector Reform Strategy.

<sup>15</sup> Disciplinary proceeding and a request to waive immunity in respect to a judge of the Bender Court of Appeal have been instituted, who has legalized the fraudulent takeover of the shares of the „Moldova-Agroindbank” commercial bank.

<sup>16</sup> As compared to the March 2011, by September 2011, the credibility of judicial system decreased by 8%. The survey was produced by IMAS on request of IDIS Viitorul think tank, [www.viitorul.org](http://www.viitorul.org).

<sup>17</sup> Following encouraged negative attitudes towards condition of the judiciary and efficiency of authorities' efforts to reform the justice: statements by prime minister regarding problems to promote reforms because of politicisation of public functions, including in the justice sector (address from 12.07.2011) and regarding the involvement of some justice representatives to take over shares from some commercial banks (August-September 2011); the repeat demission of the Supreme Court of Justice head by Parliament, with violation of legal procedure (PD No. 122 as of 05.07.2011); problems relating to election of the Supreme Court of Justice (SCJ) head (SCM failed to elect a new SCJ head); sudden promotion of some important legislative amendments on the execution system and civil procedural legislation, by assuming responsibility; deficiencies to implement legislative amendments on dissolution of economic law courts, and others.

constitutional principles and legal provisions in the area.<sup>18</sup> Documents adopted at international level by law institutions recommend specific measures to ensure the independent of the judiciary and each judge; to endow and provide an appropriate funding to law courts; to involve the judiciary in promoting and implementing reforms; to prevent the reduction of budgetary funds, if such an action would hit the judicial independence.<sup>19</sup>

### *Monitoring of specific actions*

Legislative measures seeking the dissolution of economic law courts were (partly) implemented until October 2011 among of 85 actions planned by the "Justice Reform" chapter of the Action Programme of the Government,<sup>20</sup> and some general and continual actions are being implemented.

#### **Monitoring table 2. Reformation of the judicial system to ensure independence and efficiency of law courts, prosecutor's office,<sup>21</sup> 3<sup>rd</sup> quarter of 2011**

Planned action	Progress / Regress /Comments
<p><b>Amend the Constitution by including a separate article containing regulations on ombudspersons</b></p> <p><b>Modifying the law on ombudsmen and HRCM Regulation, structure and functions, and funding mechanism for this system.</b></p>	<p><b>No progress.</b> No constitutional amendments are officially underway.</p> <p><b>Slow progress.</b> No important progress was observed in terms of activity of ombudsmen and HRCM in general.</p>
<p><b>Strengthen institutional capacity of judicial self-administration, with a particular focus on streamlined legal regulation and guaranteed independence, improved financial, administrative and human resources, institutional visibility and transparency</b></p> <p><b>Strengthen institutional capacity of judicial self-administration, with a particular focus on streamlined legal regulation and guaranteed independence, improved financial, administrative and human resources, institutional visibility and transparency</b></p>	<p><b>Slow progress.</b> Some progress was observed in the process of elaboration of some draft legislative acts, including on judicial organisation, status of judges and Superior Council of Magistracy.</p> <p>However, no legislative amendment foreseen by the previously planned package (small justice reform) was approved and enforced.</p> <p>Community and international institutions provide assistance via some technical assistance programmes and contracted international and national experts; there are premises to extend assistance, but appropriated reform strategies and legislative amendments shall be adopted and enforced before.</p>
<p><b>Clarify the situation as regards the Public Prosecution Service's role and functioning, in line with the Venice Commission Opinion of June 2008.</b></p>	<p><b>Is being implemented.</b> The Prosecutor's Office worked out and promotes its own vision on reform and its competences, but opinions of the Ministry of Justice, the judiciary (judges, Prosecutor's Office, SCM), competent NGOs are</p>

<sup>18</sup> SCM Decision No.427/29 as of 09.08.2011.

<sup>19</sup> Declaration of the European Network for Councils for the Judiciary on Challenges and Opportunities for the Judiciary in the Current Economic Climate (Vilnius, June 8-10, 2011).

<sup>20</sup> Action Programme of the Government „European Integration: Freedom, Democracy, Welfare“ 2011-2014, <http://gov.md/doc.php?l=ro&idc=445&id=3729>.

<sup>21</sup> The table is drawn up under the Action Plan "Priorities of reform actions of the Republic of Moldova – Key measures until June 2011," <http://www.mfa.gov.md/img/docs/implementation-tool-matrix-en.pdf>.

	<p>divergent, and political authorities did not express a clear attitude towards the situation, so that to adopt some legislative regulations.</p> <p>The draft justice reform strategy does not provide clear provisions on the Prosecution reform.</p>
<p><b>Consolidating the new system of training and further modernise the procedure of appointment of judges and prosecutors.</b></p> <p><b>Increase the training capacity of the National Institute of Justice (NIJ) to meet the required quota of 80% of newly appointed judges and prosecutors initially trained by NIJ, rather than remove this legal requirement.</b></p>	<p><b>No progress.</b> The legislative framework in the area was not modified, and no draft law on this area was worked out and tabled.</p> <p>The activity of NIJ was not reformed and improved.</p> <p>The training/nomination quota of judges is not respected.</p>
<p><b>Ensure that the Superior Council of Magistrates (SCM) becomes a real institution for the self-management of the judiciary by adopting the necessary legislative amendments (composition currently less than 50% judges elected by their peers) and ensuring the effective transfer of the administration of courts of justice from the Ministry of Justice to the SCM.</b></p>	<p><b>Slow progress.</b> The SCM activity is problematical so far, contests for promotion/nomination of judges are faulty in terms of fairness and transparency, SCM sittings are postponed for subjective reasons (lack of quorum, non-preparation, and intervening proceedings).</p> <p>The Law Inspection did not improve its activity, which doubles sometimes with actions of the disciplinary council of judges.</p>
<p><b>Ensure effective implementation of the law on legal aid.</b></p>	<p><b>Is being implemented.</b> Actions are taken to introduce and promote some legislative and normative amendments on guaranteed legal assistance. Problems relating to categories of people in need stand by.</p>

### *Assessment of progress*

No great progress was observed for the justice reform, with efforts focusing on adopting some strategic documents and working out draft legislative and normative acts, but their promotion and adoption are late. The direct participation of the judiciary in drafting and discussing reform projects was slow, and actions in the area did not enhance the positive perception of situation and did not strengthen the trust in justice.

### *Recommendations*

General recommendations on the justice reform and approaches in the area:

- Speeding up and optimising actions aimed to approve strategic documents and legislative drafts addressing the justice sector;
- Avoiding at maximum the politicised approaches while reforming the justice and law enforcement bodies;
- Involving the judiciary more actively and deeply in process of elaboration, planning and promotion of the reforms concerned;
- Allocating funds accordingly to current needs of making justice, by distinctly estimating and allocating budgetary resources for planned/ongoing reforms;

- Urging the adoption of the justice reform strategy and the related action plan, synchronising the justice reform with the reform of main law enforcement bodies (Prosecutor's Office, Interior Ministry, SIS) and ensuring an efficient political-institutional coordination of reforms (coordinating council established by President of Moldova, Ministry of Justice), by ensuring transparency and wide public participation;
- Focussing efforts to promote procedural reforms and reforms aimed to simplify/improve procedures, with concomitant and efficient allocation/redistribution of human and technical resources;
- Meeting recommendations from specialised assessments on needs of the justice system;
- Developing cooperation with community and international institutions which provide assistance to the justice sector, improving the use of allocated resources.

## Area 3. GOVERNANCE REFORM AND ANTICORRUPTION FIGHT

### *Analysis of current situation*

Progresses in implementing the *Central Public Administration* (CPA) reform were related to the elaboration and adoption of new legislative and normative acts,<sup>22</sup> as well as enforcement of previous regulations on public service and public function. Activities aimed at strategic planning and training of CPA functionaries continued, the decision-making transparency was ensured, as draft normative acts were published on websites, despite shortcomings of this process and formal approaches.

Modest progresses were observed in the *Local Public Administration* (LPA) sector, including because of opening of new LPA structures at district and local levels, after general local elections. Key actions in the area aimed at consultation on the draft National Decentralisation Strategy, consultations on financial decentralisation, healthcare, and education. The Parliament re-established the special parliamentary commission for the modification and completion of the legislative framework on decentralisation and strengthening of local self-government,<sup>23</sup> which aims to analyse the legislation on decentralisation policies and propose its adjustment to constitutional provisions, European Charter of Local Self-Government, as well as to recommend draft legislative acts with the view to meet decentralisation and local self-government strengthening policies.

Progresses in combating corruption are related to the adoption of the National Anticorruption Strategy,<sup>24</sup> the National Security Strategy,<sup>25</sup> the law concerning the National Integrity Commission, and the elaboration of the CCCEC reformation strategy. Law enforcement bodies continued activities to sample corruption, focussing in particular on servants running execution offices in law enforcement organs and some public services, but no corruption was revealed at high level.

At the same time, the Central Public Administration (CPA) Reform was inert, being promoted under some out-of-date documents,<sup>26</sup> and no new regulation was drafted. Efficiency of governmental bodies is critical, administrative capacities are inefficient and they are not applied accordingly to needs, while the politicisation of public organs seriously hit the management of public affairs.<sup>27</sup>

LPA reforms are very late and they are approached by fragments, the draft Decentralisation Strategy is too general and theoretical, while LPA representatives seek more elements to strengthen the local self-government, rather than the transfer of financially uncovered competences.<sup>28</sup> The regional development is difficult, including in theory, while visions on the administrative-territorial reform are not clear at central, regional and local levels; there are divergences among

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<sup>22</sup> Following documents were adopted: Law No. 155 as of 21.07.2011 concerning the approval of the single classifier of public functions; the strategic programme on technological modernisation of governance (e-Transformation), GD No. 710 as of 20.09.2011; Law No. 160as of 22.07.2011 concerning the regulatory authorisation of entrepreneurship; Law No. 161 as of 22.07.2011 concerning the implementation of single desk; Law No. 133 from 08.07.2011 concerning the protection of personal data.

<sup>23</sup> PD No. 179 from 28.07.2011

<sup>24</sup> PD No. 154 from 21.07.2011

<sup>25</sup> PD No. 153 from 15.07.2011

<sup>26</sup> The Central Public Administration Reform Strategy approved under GD No. 1402 as of 30.12.2005

<sup>27</sup> Prime minister revealed problems and shortcomings relating to functioning of the governmental administration in an address to Moldovan citizens (12.07.2011).

<sup>28</sup> See the Opinion of the Congress of Local Authorities of Moldova regarding the draft Decentralisation Strategy, <http://calm.md/>

local authorities, as well as among representatives of central and local political forces.

Many anticorruption actions are late, the perception of efficiency of anticorruption fight is low, and efforts of authorities in the area are not appreciated much,<sup>29</sup> while corruption (bribery) is part of Top-5 problems faced by citizens.<sup>30</sup>

### *Monitoring of specific actions*

Many provisions of the Governance Programme included in the chapter "Responsible and Efficient Administration" were not implemented, and many legislative and normative actions are being elaborated and consulted.

#### **Monitoring table 3. Governance reform and anticorruption fight, 3<sup>rd</sup><sup>31</sup> quarter of 2011**

Planned action	Progress / Regress /Comments
<p><b>Reform the functioning of the Moldovan Parliament by:</b></p> <ul style="list-style-type: none"> <li>• Reforming the functioning of the Parliament, in line with Council of Europe, PACE proposals on Rules of procedure and parliamentary immunity;</li> <li>• Promoting a political culture as well as procedures fostering consensus building;</li> <li>• Set up a modern information system for Members of Parliament;</li> <li>• Extend and intensify the cooperation between the Parliament and civil society.</li> </ul>	<p><b>Slow progress.</b></p> <p>Progresses are related to the drafting of some documents on this area, but their impact is not visible.</p> <p>The Parliament did not actually cooperate with civil society, including because of the parliamentary holidays and busy parliamentary activity at the end of the summer session (July).</p>
<p><b>Reform the public administration, including the progressive decentralisation of decision-making by:</b></p> <ul style="list-style-type: none"> <li>• Decentralising the decision-making process progressively;</li> <li>• Continuing the central public administration reform;</li> <li>• Developing a legal, normative and institutional framework, in line with the decentralisation and local self-government principles;</li> <li>• Implementing a decentralisation model with a clear financial resources base for local self-governing entities;</li> <li>• Devolving powers to local public authorities and build their administrative capacity;</li> <li>• Strengthening the financial and patrimonial autonomy of local public authorities.</li> </ul>	<p><b>Unimportant progress</b> related to consultations on the decentralisation strategy.</p> <p>The late presentation of the tax policy and the draft state budget law for 2011 fuels doubts and uncertainties for LPA, and could delay the elaboration and adoption of local budgets.</p>

<sup>29</sup> Only about 14 percent of respondents were content with the anticorruption fight in September 2011 (compared with 17 percent in March 2011), according to the Survey "European Union – great challenge of the Republic of Moldova, September 2011" [http://www.viitorul.org/public/3558/ro/Sondaj%20septembrie\\_site.pdf](http://www.viitorul.org/public/3558/ro/Sondaj%20septembrie_site.pdf).

<sup>30</sup> More than 60 percent of respondents of the up-mentioned survey raised such concerns.

<sup>31</sup> The table is drawn up under the Action Plan "Priorities of reform actions of the Republic of Moldova – Key measures until June 2011," <http://www.mfa.gov.md/img/docs/implementation-tool-matrix-en.pdf>.

<p><b>Combat corruption and money laundering, by:</b></p> <ul style="list-style-type: none"> <li>• Feeding the findings of the anti-corruption risk assessment process into the new National Anti-Corruption Strategy;</li> <li>• supporting the analytical unit of the Centre for Combating Economic Crimes and Corruption of the Republic of Moldova (CCCEC) and accompany its further development;</li> <li>• addressing key integrity issues such as conflict of interest and asset disclosure regimes;</li> <li>• ensuring full and effective implementation of GRECO's pending recommendations</li> </ul>	<p><b>Slow progress.</b> The adopted strategy distinctly addresses anticorruption risk evaluation aspects.</p> <p>The new law on the National Integrity Commission addresses problems relating to declaration and control on conflicts of interests, but the law was not published and enforced so far.</p> <p>The mechanism of declaration and control of conflicts of interests does not function in fact.</p> <p>The fulfilment of GRECO recommendations is late.</p>
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### *Assessment of progress*

A moderate progress was observed in terms of CPA and LPA reforms, and it was mostly related to the adoption of some legislative-normative documents and discussion of some draft strategic documents, while actions in these areas are not based on adequate planning policies.

Progress in combating corruption is related to the adoption and drafting of new policies and temporary activation of organs participating in investigation of corruption at low level.

### *Recommendations*

- CPA and LPA reforms shall be correlated and tackled in the light of some planning documents, with allocation of appropriate financial and technical resources. The LPA reform was accelerated, as the financial and patrimonial autonomy of LPA authorities was increased.
- In order to improve the decision-making transparency, discordances between Law No. 239-XVI from 13.11.2008 and the Regulation adopted under Government Decision No. 96 from 16.02.2010 shall be removed, as they give birth to confusions.
- Anticorruption reforms and actions shall be accelerated and tackled in the light of efficiency, international standards and effects of implementation, by avoiding political and administrative interests and focussing on combating corruption at high level.

## Area 4: TRANSNISTRIAN SETTLEMENT

### *Analysis of current situation*

Moldovan authorities took a series of diplomatic measures in the period concerned with the view to resume the official 5+2 Transnistrian settlement negotiations. The measures envisaged a large range of activities aimed to strengthen Moldova's position in the internationalised format of consultations on the invoked issue; previous approaches and perspectives regarding regional and continental securities matters; bilateral relations with partner countries involved in the Transnistrian settlement process; dialogue with Transnistrian representatives with regard to confidence-building measures between the two banks of the Dniester. The efforts mentioned above brought the greatest result in the last six years – the decision to resume the official 5+2 negotiations.

### ***OSCE PA Resolution on Moldova***

A delegation from the Parliament of Moldova attended the 20<sup>th</sup> annual session of the OSCE Parliamentary Assembly during July 6-10, 2011. The Resolution on Moldova was released during the session; it addresses the settlement of the Transnistrian conflict and:

- Calls for the resumption of the settlement talks in the 5+2 format, with the efforts of the mediators from the Russian Federation, Ukraine and the OSCE, as well as the European Union and the United States as observers in the settlement negotiations;
- Considers that identification of the special legal status for the Transnistrian region in the composition of the Republic of Moldova constitutes the major aim of the Transnistrian conflict settlement process;
- Urges the Moldovan Government and the administration of the Transnistrian region to continue their efforts with regard to confidence- and security-building measures. OSCE PA supports political dialogue and people-to-people contacts;
- Appeals to the Russian Federation to renew and finalise the process of withdrawal of its troops and munitions from the territory of the Republic of Moldova in accordance with commitments undertaken in the OSCE framework;
- Invites all participants in the Transnistrian conflict settlement to undertake consultations with a view to transforming the current peacekeeping mechanism into a multinational civilian mission under an international (OSCE) mandate.

In consensus with the Resolution, Prime Minister and Deputy Prime Minister for Reintegration reiterated the position of Chisinau regarding the Transnistrian settlement, during the July 7, 2011 meeting with ambassadors and representatives of 19 permanent delegations to the OSCE in Vienna:

- The official negotiations in the 5+2 format shall be resumed unconditionally, and there are all necessary internal and external premises for this purpose;
- The agenda of the 5+2 negotiations shall include relevant issues to make the negotiations advance;
- Sector working groups shall focus on resolving problems of economic agents and population from both banks of the Dniester;
- Transnistria-based businesses will be certified in continuation in line with effective procedures; approximately 800 Transnistria-based economic agents were registered until now, and they enjoy the same rights and facilities in the foreign trade area as other companies nationwide do;
- Necessary efforts will be made in continuation to protect and respect human rights and fundamental freedoms in accordance with international norms and standards.



In the same train of thoughts, during the Annual OSCE Security Review Conference, a representative of Moldova invoked the position of Moldovan authorities regarding efforts to unlock the crisis relating to the Conventional Armed Forces in Europe Treaty:

- The Russian Federation shall complete the withdrawal of its armed forces from the territory of the Republic of Moldova, in line with the commitments assumed at the 1999 OSCE Summit in Istanbul;
- The current peacekeeping operation in the Security Zone shall turn into a multinational civilian mission under the mandate of an international organisation, which shall bring the sides closer to each other rather than to divide them.

### ***Efforts to strengthen confidence-building measures between banks of the Dniester***

The international diplomatic effort was internally supported. Issues relating to optimisation of activity of working groups focussed on:

- Restoring the circulation of cargo trains in the Transnistrian sections of the railways of Moldova;
- Building working groups in charge with customs matters;
- Reconnecting the wire telephony connection between the two banks of the Dniester;
- Completing the draft regulation on functioning of working groups;
- Storing and using radiological elements from the Transnistrian region;
- Latin-script schools based on the left bank of the Dniester;
- Launching the activity of working groups in charge with registrar certificates;
- Dniester Euroregion project.

The problem of building confidence between the two banks of the Dniester and other specific issues relating to security in the Transnistrian section of the Moldovan-Ukrainian border were considered with the participation of the EUBAM Mission, especially in the light of possibility to resume the circulation of cargo trains in the Transnistrian sections of the Moldovan railways. It was noted that technical problems related to the circulation of cargo trains were resolved in principle, with customs experts being expected to work out technological schemes of transportation of goods via Transnistrian sections of railways. EUBAM supported the approach of Chisinau regarding the resumption of circulation of Moldovan trains in the Transnistrian sections, both in economic terms, and as a step forward building confidence between people from both banks of the Dniester River.

### ***Meeting between Premier Vlad Filat and Transnistrian leader Igor Smirnov***

A conference dedicated to building confidence in the Transnistrian settlement process took place in Bad Reichenhall, Germany on September 8-9, 2011. It was organised under the OSCE aegis. Participants agreed as follows:

- Stressed the necessity of relieving the circulation of cargo and passenger trains in the Transnistrian sections of railways;
- Resolution of communication problems (wire, mobile telephony connection and post services);
- Signing of the common regulation on activity of expert groups in charge with building confidence.

A distinct component of the meeting was the resumption of the negotiation process in the 5+2 format. Transnistrian leader sought the removal of barriers to the foreign commercial activity of Transnistria and an equal footing in case of

resumption of the official negotiations in the 5+2 format. Further, he reiterated the positions expressed a week before the event concerned, stressing that:

- The position of Transnistria is unchanged: it is based on constitution and the September 17, 2006 referendum on association with Russia;
- Transnistria will keep building its own system by adjusting its laws to the Russian legislation in all sectors;
- Tiraspol could introduce economic sanctions for Moldova, if Chisinau does not withdraw the economic blockade that Transnistria-based enterprises face now;
- Tiraspol addressed a letter to Russian Premier Vladimir Putin, asking him to accept Transnistria as observer in the Customs Union Russia-Belarus-Kazakhstan.

### ***Resumption of official 5+2 negotiations***

On September 22, participants in the Moscow consultations agreed on resumption of the 5+2 negotiations. Next 5+2 meeting, when it will be set, will focus on principles and ways to holding negotiations, as well as on working agenda of the Transnistrian settlement process. The Moldovan Government welcomed this decision, indicating "the priority character of the territorial reintegration process" and reaffirming its "commitment to keep doing its best for finding a peaceful and lasting solution for the definitive resolution of this conflict." According to a communication released by the Government, the resumption of negotiations "is the logical result of efforts made by all participants in this process the last two years." The decision to resume the negotiations was welcomed by OSCE Chairman-in-Office Audronius Azubalis, foreign minister of Lithuania, and Catherine Ashton, high representative of the European Union for foreign affairs and security policy. On the other hand, Transnistrian leader Igor Smirnov was sceptical with the event, saying that the resumption of the official 5+2 negotiations is not a practical progress.

## **Section II. MONITORING THE REPUBLIC OF MOLDOVA'S ACTION PLAN ON FULFILMENT OF EU RECOMMENDATIONS FOR THE ESTABLISHMENT OF A DEEP AND COMPREHENSIVE FREE TRADE AREA BETWEEN MOLDOVA AND EU**

### **Area 1. GENERAL COORDINATION AND CONSOLIDATION OF ADMINISTRATIVE CAPACITIES**

#### *Analysis of current situation*

The implementation of provisions of the Action Plan on Fulfilment of the EU Recommendations for the Establishment of the Deep and Comprehensive Free Trade Area between the Republic of Moldova and the European Union (hereinafter Action Plan)<sup>32</sup> requires so far a joint and synergic effort from governmental institutions involved and directly in charge with efficiency of this process. Efforts made to improve the interministerial cooperation process are complex and often troublesome, given the bureaucratic nature. A dose of optimism in the process of fulfilment of the EU Recommendations was brought by European Parliament President Jerzy Buzek who stated in a speech published on September 15, 2011: „Moldova is moving towards its European vocation. Through this vote, the European Parliament recognises Moldova's growing importance in Europe and its significance and commitment to the European Union as a key partner. Moldova's success is important to the EU.”<sup>33</sup> At the same time, the efforts made the last two years and Moldova's commitments to implement and carry out the recommended reforms were recognised. However, there are some faults so far, and a permanent consolidated effort is required for this purpose.

We mention our advocacy of the importance of enhancing professionalism, competence and motivation of public functionaries participating in the implementation of the Action Plan, given the fact that the human factor will play a critical role in the success of implementation of the agenda of pro-European policies. So far, we observe just efforts to identify training needs and sporadic organisation of seminars (see the monitoring table 1). The essential cause of the slow pace is the fact that the organisation and conduct of appropriate training programmes depend on necessary funding, usually from outside, from potential donors interested in providing such assistance.

#### *Monitoring of specific actions*

The Government made following major steps in the 3<sup>rd</sup> quarter of 2011:

- With the purpose to speed up the fulfilment of key EC recommendations, the draft Government Decision on the modification of GD No. 1125 as of 14 December 2010 was worked out, upon an initiative by the Ministry of Economy. The amendments concern actions, terms and assistance needed to implement key EC recommendations. In particular, the modifications address the following areas: consolidation of administrative capacity, sanitary and phytosanitary measures, TBT, services and investments, competition policy. The draft will be submitted to the Government in the mid-November 2011, in order to be approved.

<sup>32</sup> See the Action Plan at <http://www.mec.gov.md/sector/241/2239>.

<sup>33</sup> “Buzek on Moldova's Association Agreement”, [http://eeas.europa.eu/delegations/moldova/press\\_corner/all\\_news/news/2011/20110919\\_en.htm](http://eeas.europa.eu/delegations/moldova/press_corner/all_news/news/2011/20110919_en.htm)

- Training seminars were organised for the personnel participating in DCFTA negotiations. The Government continued to participate actively in debates on strategic aspects of DCFTA during meetings organised by development partners and nongovernmental organisations from Moldova.

**Monitoring table 4. Progress in implementing actions in the area “General coordination and consolidation of administrative capacities” planned for the 3<sup>rd</sup> quarter of 2011<sup>34</sup>.**

Action	Progress / Regress /Comments
<p><b>Using instruments provided by EU and other donors to conduct training seminars on DCFTA-related issues.</b></p>	<p><b>Slow progress.</b> The launching of the Food Security Project, which addresses the Ministry of Agriculture and Food Industry in particular, planned for late 2011 is just being prepared so far. No progress was made so far to select six national advisers to prepare the DCFTA negotiations. Just two advisers (for market access and communication) were selected until now with the UNDP assistance on basis of the EC-funded project “Transitory support in consolidating capacity of public administration in Moldova”.</p> <p>Despite the slow pace, training programmes and seminars aimed to increase knowledge of public functionaries go on. Thus, during September 1-2, 2011 the Swedish Foreign Ministry organised a seminar regarding the Commerce in the Eastern Partnership, with the purpose to strengthen skills relating to trade policy and DCFTA negotiations, and addressed public authorities in particular. Hungarian partners will organise a study visit for members of the DCFTA Working Group in early November. At the same time, a training programme will be organised on December 1-2, 2011 jointly with Czech partners to boost professional skills of members of the DCFTA Working Group.</p>
<p><b>Holding DCFTA-related training seminars for institutions involved, private sector and civil society.</b></p>	<p><b>Action extended for whole 2011.</b> Action extended for whole 2011. MEc representatives participate actively in events organised by civil society or development partners. At the same time, MEc established a participatory framework for civil society representatives. However, some aspects related to cooperation with private sector leave much to be desired, either because of passiveness of some representatives of private sector or because authorities do not hurry up to discuss with companies affected by the future trade liberalisation in certain sensitive areas.</p> <p>The Ministry of Economy organised periodical meetings of the four working subgroups which are part of the DCFTA Working Group, and thus built the framework needed to discuss progress in meeting EC recommendations and establish measures needed to be take in order to prepare DCFTA negotiations.</p> <p>Actions aimed to strengthen relations with Transnistria stagnated in the period concerned. Thus, a poor participation of Transnistria in the two roundtables organised in the period concerned as part of the UNDP-funded project “Support to confidence-building measures between the two banks of the Dniester” was observed.</p>

<sup>34</sup> Based on the measures included in the Action Plan for on fulfillment of EU recommendations for the establishment of a Deep and Comprehensive Free Trade Area between Moldova and EU, <http://www.mec.gov.md/sector/241/2239>.

Action	Progress / Regress /Comments
<b>Participating and cooperating with EU high-ranking experts to identify and set up priorities for the next 2-3 years.</b>	<b>Is being developed with delay.</b> Ad-hoc meetings for representatives of ministries involved in the process of preparation of DCFTA negotiations take place, with the participation of EUHLPAM Mission advisers. Concomitantly, EU high-ranking experts assist the Government to identify needs and actions that EC could fund in priority.
<b>Including DCFTA into the EU Institutional Skill Strengthening Programme (CIB) with the purpose to ensure a continuity of conciliation and support to reform activities.</b>	<b>(Formally) accomplished.</b> MEc will get assistance starting 2012. At the same time, the Ministry of Agriculture and Food Industry will enjoy CIB assistance in food security area starting late 2011.

### *Assessment of progress*

A relatively slow progress was observed on this dimension in the 3<sup>rd</sup> quarter. Although the DCFTA negotiations are expected to begin in September-October 2011, a delay in implementing the planned actions was observed. Stagnation of confidence-building actions with Transnistria is a serious problem.

### *Recommendations*

During the 8<sup>th</sup> round of negotiation of the Moldova-EU Association Agreement that took place in Chisinau on October 19, 2011 the parties exchanged information including about opening of DCFTA negotiations. Of course, the Moldovan Government shall develop the dialogue with the Transnistrian side more quickly, including in terms of consolidation of administrative capacities. A more active involvement of the Transnistrian region is needed for an efficient preparation of future DCFTA negotiations.

## Area 2. MARKET ACCESS FOR GOODS / TRADE STATISTICS

### *Analysis of current situation*

The collection of statistics on foreign trade of Moldova is a true challenge for our country, given the relations between the two banks of the Dniester, though it does not require high financial costs. The reason why the area "Market access for goods / trade statistics" was included into the Action Plan is understandable, given its special importance both for Moldova and for EU. However, this is definitively a difficult task which is delayed for diverse reasons: slow harmonisation of legislation governing several sectors in Moldova, as well as the non-cooperation of the Transnistrian side, which is a key player in honouring this task.

### *Monitoring of specific actions*

While a certain evolution was observed in terms of market access for goods and trade statistics early this year, efforts in this respect were actually ceased in the 2<sup>nd</sup> quarter of 2011. Being short of any certitude, the Government was calling for the possibility of reporting integrated statistics for Moldova (including the Transnistrian region) till the end of the 3<sup>rd</sup> quarter. Of course, this estimation was too optimistic, since collecting data without the participation of the Transnistrian side is impossible indeed. Following minor actions were accomplished in the 3<sup>rd</sup> quarter:

- The Ministry of Economy, Ministry of Finance, National Bureau of Statistics and the Reintegration Office continued "to consider ways to work out a statistics collection concept" for all Moldova. This action is necessary to work out a well-argued tariff offer for EU, which should be envisaged during DCFTA negotiations. However, doing so is hard without the participation of the Transnistrian side, and that's why one may say that this concept will not be worked out immediately, while the utility of the final product could be minimal, should Transnistrian authorities decline any support;
- No consensus on building a working group for cooperation between the two banks of the Dniester in the statistics area was reached so far. Except for meetings last March (attended by the Transnistrian side but without any results) and last May (between Moldovan and Ukrainian customs services, which discussed ways to exchange data on goods and transports crossing the Moldovan-Ukrainian border), no other major actions took place in the 3<sup>rd</sup> quarter to encourage the building of the working group. The Government reported efforts to fulfil this objective, but no clear results are available so far;
- NBS provided the Ministry of Economy with data on trade exchanges of Transnistria-based businesses registered with the Customs Service of Moldova. The data are being translated in order to be reported to EUROSTAT.

***Monitoring table 5. Progress in implementing actions in the area "Market access for goods / trade statistics" planned for the 3rd quarter of 2011***

Action	Progress / Regress /Comments
<b>Working out and coordinating with the European Commission a general concept concerning the collection of statistics in all statistical fields (including foreign trade statistics) in all territory of Moldova.</b>	<b>Slow progress</b> , without participation of Transnistrian authorities.

<b>Considering possibilities to set up a working group for cooperation in the area of statistics (including foreign trade statistics) between the two banks of the Dniester.</b>	<b>No progress.</b> No meetings were held in the 3 <sup>rd</sup> quarter to fulfil this objective.
<b>Harmonising the legislation in the area of statistics (including foreign trade statistics) with the acquis communautaire.</b>	This action is expected to be implemented starting 2011 and throughout negotiation and implementation of DCFTA. <b>No progress was observed in the 3rd quarter.</b>
<b>In line with the bilateral memorandum of understanding with EUROSTAT, the National Bureau for Statistics will provide every quarter statistics on Moldova's exports and imports, detailed accordingly to eight digits of the Moldovan Merchandise Nomenclature, harmonised with the Joint Nomenclature of EU. The statistical files will not cover the export and import deals by Transnistria-based enterprises and organisations.</b>	<b>Slow progress.</b> No progress was observed, except for data covering years 2008 – 2010 developed at level of eight digits and data for the 1 <sup>st</sup> quarter of 2011 developed at level of nine digits. Data on trade exchanges of Transnistria-based businesses registered with the Customs Service of Moldova are being translated.

### *Assessment of progress*

No major progress was observed in the area of trade statistics. The 3<sup>rd</sup> quarter was not marked by any concrete actions or meetings to produce positive evolutions in drafting a statistics collection concept for all territory of the country, building a working group for cooperation in the area of statistics between the two banks of the Dniester and harmonising the legislation on statistics to the acquis communautaire.

### *Recommendations*

Given the lack of progress in the area of market access for goods and trade statistics, which is a key sector for opening DCFTA negotiations, all recommendations from precedent issues of Euromonitor still are up-to-date. In particular, following aspects are important so far:

- Publishing foreign trade data on countries and products developed at level of 8/9 digits, accordingly to Eurostat and NBS website, so that to make them available to population;
- Releasing available data on foreign trade of the Transnistrian region (for example, trade deals of enterprises registered with the State Certification Chamber), identifying and considering all available data sources on foreign trade of the Transnistrian region (existing data of the Customs Service, differences of data on Moldovan exports developed on countries and imports reported by countries concerned, available data developed on companies);
- Urgently opening the process of harmonisation of legislation on statistics to the acquis communautaire.

## Area 3. TARIFF AND NONTARIFF BARRIERS (TNTBs)

### *Analysis of current situation*

The Ministry of Economy worked out an action plan aimed to remove tariff and nontariff barriers to trade which contravene to WTO regulations and submitted it to the Government on October 18. The plan seeks the modification of the normative framework by the end of 2013.

### *Monitoring of specific actions*

The Moldovan Government took the following actions in the 3<sup>rd</sup> quarter of 2011:

- GD No. 262 as of 7 March 2008 concerning the management of tariff contingents was modified after sector talks launched in the period covered by this report, as well as with the view to improve preferential tariff contingents provided by EU to Moldova.
- The action plan aimed to remove tariff and nontariff barriers to trade which contravene to WTO regulations, worked out by the Ministry of Economy jointly with competent governmental institutions and local experts, will be considered and discussed in the near future. Thus, after the identification of a series of systemic problems which bar the commercial activity of majority of domestic producers, a number of nontariff barriers which unfit commitments towards WTO and are related to import/export bans, as well as aspects relating to the customs management in particular, internal orders which produce unjustified costs were revealed, including aspects of indicative/reference prices, clearance orders by Customs Service, attribution of tariff position for imported goods, activity of customs brokers, and improvement of efficiency of customs management in general, quality infrastructure, importation of ecological payments, importation of products of animal origin, exportation of ferrous and precious metals, etc.;
- The Ministry of Economy assesses every quarter the progress in using the Autonomous Trade Preferences (ATP) by Moldovan producers and reported findings to the private sector. As already noted in the precedent issue of Euromonitor, the incapacity to respect all European sanitary and phytosanitary standards is so far a major obstacle to food exports of animal origin. Moldova exported wine, barley, wheat and corn under ATP regime in the period concerned. The EU quota for wine increased after the approval of the Council (EC) Regulation 581/2011 from 10,000 hl up to 15,000 hl for 2011 and was distributed 64.85 percent (about 97,300 hl).<sup>35</sup> The EU quota for barley was used 87 percent<sup>36</sup>; on the other hand, the EU quota for wheat and corn was used 100 percent<sup>37</sup> till September 2011.
- The European Union extended the term of the Autonomous Trade Preferences for Moldova until 2015, but it's not clear if 2015 will be seen like a horizon of time regarded by EU as realist for entrance into force of an authentic DCFTA.

***Monitoring table 6. Progress in implementing actions in the area "Tariff and nontariff barriers" planned for the 3<sup>rd</sup> quarter 2011.***

Action	Progress / Regress /Comments
Assessing the current situation in terms of use of the Autonomous Trade	<b>Slow progress.</b> The Ministry of Economy assesses the use of ATP every quarter. This

<sup>35</sup> See the Report by the Ministry of Economy concerning the implementation of the action plan on fulfillment of the EC recommendations with the view to open DCFTA negotiations.

<sup>36</sup> Idem.

<sup>37</sup> Idem.



Action	Progress / Regress /Comments
<b>Preferences (ATP) and informing society and private sector why the access of some products to EU market is limited.</b>	action will be implemented until expiration of the current ATP (2015).
<b>Informing the private sector that ATPs were extended for a 3-year term (2013-2015).</b>	<b>Accomplished.</b> Reports are released twice a month during meetings with members of Group IV of the working group in charge with preparation of DCFTA negotiations. The Chamber of Commerce was also involved into releasing reports via its subdivisions nationwide.

### *Assessment of progress*

A reasonable progress was observed in this area, as important actions were implemented on time. A critical step was the preparation and presentation to the Government of the action plan aimed to remove tariff and nontariff barriers to trade which contravene to WTO norms. Further, a complex action which will require a joint and ceaseless effort from authorities involved is the implementation in the due time of actions stipulated by the plan concerned.

### *Recommendations*

- Shortcomings relating to preparation of Moldovan exports to implement sanitary and phytosanitary standards are a basic problem in terms of use of Autonomous Trade Preferences. The early implementation of these standards will direct to a less painful adaptation, in case a DCFTA is built.
- The implementation of necessary reforms in this area requires a maximum transparency and the early anticipation of crises, especially for producers concerned, so that to have the time needed to collect resources and operate changes in this respect.

## Area 4. TECHNICAL BARRIERS TO TRADE

### *Analysis of current situation*

Preparing Moldova to join the International Electrotechnical Commission (IEC) as associated member is the No. 1 TBT goal. As well, the Ministry of Economy and the National Institute for Standardisation and Metrology were expected to take necessary measures in the period concerned, in order to meet requirements relating to Moldova's joining to the European Committee for Electrotechnical Standardisation (CENELEC). It is worth to note that IEC is one of three sister organisations (IEC, ISO and ITU) that develop international standards. IEC international standards are fully consensus-based and final decisions represent the needs of key stakeholders of every nation participating in IEC work. Every member country, no matter how large or small, has one vote and a say in what goes into an IEC international standard. Although Moldova became an affiliated member of IEC in 2001, the plan says that Moldova must join IEC as a full right member. According to the progress report, public institutions dealing with this objective submitted in the 3<sup>rd</sup> quarter of 2011 to IEC all necessary documents which confirm Moldova's eligibility to a full right membership to this organisation. However, the official progress report did not indicate any actions aimed "to prepare the field" for joining CENELEC.

Another difficult objective is to select laboratories which will organise proficiency tests and inter-laboratory comparison. This objective was not fulfilled in the 1<sup>st</sup> quarter of this year for reasons overcoming competences of the Centre of Accreditation in the Field of Products Conformity.

These actions were essentially reduced to an inefficient cooperation between institutions in charge with accomplishing this goal. Competent institutions succeeded to coordinate their activity and make some progress in this respect in the 2<sup>nd</sup> quarter. The progress report for the precedent quarter said that 8 pilot laboratories were selected, while the report for the 3<sup>rd</sup> quarter indicates 12 laboratories. According to the progress report, equipment needed for proficiency tests will be procured soon with the financial assistance of the World Bank.

Representatives of the Ministry of Economy said the precedent quarters that some goals of the plan were useless (!). This was also the case of the survey on the current metrology system. The progress report for the 3<sup>rd</sup> quarter quotes representatives of the Ministry of Economy as saying that the Government adopted the new metrology law last June and submitted it to the Parliament. In other terms, the new draft law was worked out without any preventive survey, and the objective unfulfilled the precedent quarters was completely ignored.

In the framework of the same objective, the Ministry of Economy should conduct a survey on institutional capacity to enforce the legislation in the area and the capacity to implement changes in the DCFTA framework (including description of the way of introducing and applying the traceability). Developers of the progress report noted that the survey is being developed and will be available after one month (in early December).

### *Monitoring of specific actions*

As of situation for the 3<sup>rd</sup> quarter of 2011, the Government implemented the following actions:

- The Ministry of Economy and the National Institute for Standardisation and Metrology provided IEC with all necessary documents confirming Moldova's eligibility as a full right member of this institution;
- The Centre of Accreditation in the Field of Products Conformity got with a six-month delay the approval of the list of testing laboratories selected in early 2010.
- The Government adopted the new Metrology Law, which took over regulations and directives of the European Community. The draft law was submitted to the Parliament.

**Monitoring table 7. Progress in implementing actions in the area "Technical barriers to trade" planned for the 3<sup>rd</sup> quarter of 2011.**

Action	Progress / Regress /Comments
Preparing Moldova to join IEC as an associated member first and CENELEC second.	Partly fulfilled.
Selecting testing laboratories as organisers of proficiency testing (PT) and inter-laboratory comparison (ILC) at national level, accordingly to recommendations by the National Accreditation Body, and training them in line with ISO/CEI 17043.	Fulfilled with delay. This objective was initially planned for the 1 <sup>st</sup> quarter of 2011, but was not fulfilled on time, as institutions involved failed to cooperate in a positive manner.
Working out of a survey on the current metrology system and institutional capacity to enforce the legislation in the area, and capacity to implement modifications within DCFTA, inclusively by describing the way of introducing and applying the traceability.	Unfulfilled. According to the progress report, the survey will be released after one month.
Working out and approving under a Government decision a comprehensive plan on implementation of further reforms in the TBT area.	Partly fulfilled with delay. The progress report released by representatives of the Ministry of Economy indicates a series of TBT laws which were submitted to the Parliament in order to be considered. A comprehensive plan on implementation of further reports on TBT area (in the 1 <sup>st</sup> quarter of 2012) will be worked out after approval of these draft laws.
Issuing a list of European standards to be introduced and setting terms to be adopted and introduced.	Partly accomplished in advance. Directive 85/374/EEC of 25 July 1985 will be transposed by the end of the 1 <sup>st</sup> quarter of 2012.

### *Assessment of progress*

Before assessing any progress, it is worth to note that just three goals were planned for the 3<sup>rd</sup> quarter. Unfortunately, not even this little work was completely accomplished. In particular, the survey on institutional capacity of enforcing the legislation on metrology will be available after one month in the best of cases. This delay is certainly strange, after functionaries of the Ministry of Economy have earlier said that working out such a survey makes no sense.

As for designation of testing laboratories, it seems that the process was successfully completed. However, the question is when the selected laboratories will get the reference materials. If this stage is delayed like the designation of laboratories, the ISO/CEI 17043 will be implemented with one more year delay.

### *Recommendations*

Following is recommended with the purpose to improve performances of state institutions participating in fulfilment of TBT goals:

- Although competent authorities (National Institute for Standardisation and Metrology and Ministry of Economy) “are preparing the field” for Moldova’s joining to IEC, no similar efforts were observed to join CENELEC. For this purpose, appropriate measures shall be taken to help Moldova join this institution;
- Given evolutions in the precedent quarters, institutions in charge with implementing ISO/CEI in designated laboratories shall respect the timetable stipulated by the action plan, at least at the second stage of the project – acquisition of reference materials;
- Authorities delay some current objectives and advantage some goals planned for 2012. Respect for the initial plan would be a proof of managerial efficiency at level of institutions participating in these objectives. The rescheduling of goals for a further period or current periods could raise confusion among representatives of the European Commission.

## Area 5. SANITARY AND PHYTOSANITARY MEASURES (SPS)

### *Monitoring of specific actions*

The sanitary and phytosanitary sector is covered by most complex objectives of the plan. New standards and requirements imposed by EC will have a direct impact on performance of food producers. In particular, producers have or will have to buy new equipment, to employ more workers, in order to meet new sanitary and phytosanitary requirements. The law obliging producers to mark their eggs is a representative example in this regard. Of course, the acquisition of marking equipment will have a negative impact on output, but there is no other way to join European markets.

However, some objectives stipulated by the action plan cover the institutional architecture in SPS sector. The Sanitary-Veterinary Agency for Security of Products of Animal Origin should assess in the 3<sup>rd</sup> quarter the necessity of turning into a new institution called Sanitary-Veterinary Agency for Safety of Food Products. The Government adopted in late August 2011 the Food Security Strategy of Moldova for 2011-2015. The National Food Security Agency will be built in Moldova as part of the strategy, and it will increase control on food security.

Needs of training the staff in charge with access to the EU Rapid Alert System for Food and Feed were not assessed. According to the progress report, the training needs will be evaluated after the building of the Sanitary-Veterinary Agency for Security of Food Products.

The last objective covering the SPS area planned for the 3<sup>rd</sup> quarter is improving cooperation between the Customs Service and competent authorities, in accordance with principles of the international convention on the harmonisation of frontier controls of goods. As already noted in previous issues of Euromonitor, fulfilling this goal is absolutely necessary for Moldova, regardless of negotiations with EC and implementation of the plan. The current mechanism seriously hits both meat/eggs exporters and importers. However, the official report does not indicate any progresses to complete those made in the previous quarters. It remains to be seen if the Government will approve the draft law by the end of 2011.

In brief, the Government implemented the following actions in the 3<sup>rd</sup> quarter of 2011:

- The need to reorganise the Sanitary-Veterinary Agency for Security of Products of Animal Origin was evaluated. The proper institutional reorganisation is planned for next quarters.
- Institutions in charge with reaching this goal drafted the Food Security Strategy of Moldova for 2011-2015.

**Monitoring table 8. Progress in implementing actions in the area "Sanitary and phytosanitary measures" planned for the 3<sup>rd</sup> quarter of 2011.**

Action	Progress / Regress /Comments
Considering the need of reorganising the Sanitary-Veterinary Agency for Security of Products of Animal Origin into the Sanitary-Veterinary Agency for Security of Food Products, in accordance with the food security development concept of Moldova.	<b>Accomplished.</b> The need of building a new SPS Agency was confirmed.
Improving the mechanism of cooperation between the Customs Service and competent authorities, accordingly to principles of the international convention on the harmonisation of frontier controls of goods, signed in Geneva on October 21, 1982.	<b>Partly accomplished.</b> The draft law is being considered by the Government, and is expected to be approved by the end of 2011. This goal shall be accomplished by the end of 2011.
Evaluating needs to train the staff in charge with providing access to the EU Rapid Alert System for Food and Feed.	<b>Unaccomplished.</b> This goal will be fulfilled after the establishment of the Sanitary-Veterinary Agency for Security of Food Products.
Drafting and implementing a food security development strategy in Moldova.	<b>Fulfilled in advance.</b> The Ministry of Agriculture and Food Industry and the Sanitary-Veterinary Agency for Security of Products of Animal Origin assisted by international experts developed the Food Security Strategy of Moldova for 2011-2015.

### *Assessment of progress*

Although only three actions were planned in the SPS Area, just one of them was successfully completed – drafting and implementing a food security strategy of Moldova. The Government had a relatively modest performance per total.

### *Recommendations*

- The Government is recommended to reassess priorities and focus on goals planned for the current quarter. In other terms, it would be more reasonable to strictly accomplish the goals for the 3<sup>rd</sup> quarter than to speed up efforts for some objectives planned for 2012.
- The Government should hurry up to approve the draft law aimed to improve the work of the Customs Service. Related advantages would both encourage negotiations with EC, and facilitate activity of domestic businesses, regardless of evolution of trade relations with EU.

## Area 6. TRADE FACILITATION AND CUSTOMS MANAGEMENT

### *Monitoring of specific actions*

With the view to meet EC recommendations on trade and customs management, the survey on customs clearance fees and their adjustment to WTO and EU regulations that seek the gradual removal of customs clearance fees and introduction of a fixed tax, was finished in the 3<sup>rd</sup> quarter of 2011. The survey recommends the gradual removal of customs clearance fees set ad-valorem and in a fixed amount which unfit WTO and EU requirements, and the further introduction of a fixed tax for some specific customs operations, accordingly to international standards.

In this context, the in-depth analysis of legislative framework on customs clearance fees was completed, including:

- The national customs legislation: Customs Code of the Republic of Moldova No. 1149-XIV of 20.07.2000, Law No. 1380-XIII of 20.11.1997 concerning the customs tariff, annexes No. 2 and 3.
- Acquis communautaire: modernised community customs code, (CEE) Regulation No. 2454/93 of the European Commission of 2 July 1993, which sets some orders on application of (CEE) Regulation No. 2913/92 of the Council of Institution of the Community Customs Code.
- WTO regulations on nontariff barriers: General Agreement on Trade and Customs Tariffs (GATT 1994).
- Romanian customs legislation: customs code of Romania.
- Guideline concerning WTO negotiations on trade facilitation, Part B (F) „Customs fees and tariffs for import and export”.

Following major progresses/regresses were observed in the 3<sup>rd</sup> quarter:

- The survey on customs clearance fees and their adjustment to WTO and EU regulations was completed;
- No real progress was observed in terms of complete revision of some existing customs clearance taxes;
- No real progress was observed in terms of modification and implementation of a legal and normative framework to allow a homogenous application of the customs legislation in all territory of the Republic of Moldova, including the collection of import rights for deals of Transnistria-based economic agents.

***Monitoring table 9. Progress in implementing actions in the area “Trade facilitation and customs management” planned for the 3<sup>rd</sup> quarter of 2011.***

Action	Progress / Regress /Comments
Drafting a survey on customs clearance fees and their adjustment to WTO and EU regulations.	The survey was completed.
Revising the effective customs clearance taxes.	They were not revised in the period concerned.
Drafting and adopting a draft law concerning the modification of Annex No. 2 to Law No. 1380-XIII of 20 November 1997 on the customs tariff, which establishes the list of services and customs clearance fees.	The draft amendment was not approved in the period concerned.

Action	Progress / Regress /Comments
Considering possibilities to revise, modify and implement a legal normative framework after consultations with foreign partners, which would allow a homogenous application of the customs legislation in all territory of the Republic of Moldova, including the collection of import rights for deals of Transnistria-based businesses.	<b>No progress</b> was observed in this field.
Meeting EUBAM recommendations.	<b>Partial progress.</b> Recommendations on preliminary data exchange or simplification of customs procedures are being discussed.
Elaborating a mechanism to improve activity of mobile teams of the Customs Service by adjusting the normative framework to European standards, endowing staff with special equipment and continuously training it.	<b>Partial progress.</b> Two seminars for MDCS, MDBG and MAI were organised with the EUBAM support. Instructions on general working framework for mobile teams of the Customs Service of Moldova were worked out and delivered to the Customs Service. The Customs Service is expected to approve or revise these instructions.
Improving the mechanism of contraposition of data on circulation of goods at the Moldova-Ukrainian border, got via the preliminary data exchange system between Moldova and Ukraine.	<b>Slow progress,</b> no clear results. Representatives of both states are discussing ways to improve the mechanism, but no formal results are available so far.
Periodically assessing ethics knowledge of customs employees, in line with the Conduct Code for customs employees approved under Government Decision No. 456 of 27 July 2009.	<b>Progress.</b> According to data from the Customs Service of Moldova, 494 employees from eight customs stations were attested during June 9 – August 6, 2011 in accordance with the law on customs organs and the regulation concerning the attestation of customs officers. According to data concerned, as a rule, the attestation is organised once in two years, but the least once in four years, and aims to assess the accordance with the held office, to evaluate knowledge in specific areas, including professional ethics.
Translating Transparency International reports on ethics in the Customs Service and delivering them to the European Commission.	A report by the Transparency International, "Treating conflicts of interests in the public service: evolution or stagnation", was translated.
Periodical reporting of amendments to the fiscal and customs legislation of Moldova to the European Commission.	<b>Is being developed.</b>
Presentation of the strategy on professional education of the Customs Service for 2010-2013 to the European Commission.	<b>Accomplished in the 1<sup>st</sup> quarter.</b> Supplementary actions are not necessary.

### *Assessment of progress*

A certain progress was observed in the 3<sup>rd</sup> quarter, especially after the survey on customs clearance fees and their adjustment to WTO and EU regulations was completed. However, it seems that many accomplishments have a declarative nature for the process of implementation of the action plan, set to be developed until 2015. So far, a serious problem persists in terms of control at the border



with the separatist region. Certain EUBAM-supported activities are insufficient to ensure the security and transparency of circulation of goods and services.

### *Recommendations*

- The Government shall negotiate with the Transnistrian side, as well as with key partners from the region, as regards possibilities to revise, modify and implement a legal and normative framework capable to allow a homogenous application of the customs legislation in all territory of Moldova, including the collection of import rights for deals carried out by Transnistria-based businesses;
- Effective customs clearance fees shall be revised, particularly in accordance with key references of the survey on customs clearance taxes and their adjustment to WTO and EU regulations, finished in the period concerned.

## Area 7. RULES OF ORIGIN

### *Analysis of current situation*

Systemic shortcomings in the Customs Service are current so far. Thus, the high corruption rate, bureaucracy and insufficient transparency of institutions essentially affect the domestic business environment. At the same time, the institutional inertia in implementing structural reforms in this area could be explained by influence of some groups of interests which want to preserve the current situation. Therefore, this situation has negative repercussions on the process of fulfilment of EU recommendations and action plan on rules of origin with the view to build DCFTA. The modest progress made by Moldova in this area is explained by two more important factors. First, Moldovan authorities do not control the entire customs territory of the country, and this hardens much the process of certification and control of rules of origin of businesses based in Transnistria. Second, the efficient implementation of the Action Plan on building DCFTA is also undermined by counterproductive relations between the Customs Service and the Ministry of Economy.

### *Monitoring of specific actions*

The Customs Service reported the following actions as achieved in the 3<sup>rd</sup> quarter of 2011:

- Like in the precedent quarter, the enforcement of Government Decision No. 816 from 2005 (revised in 2006 and 2008) and Government Decision No. 1001 from 2001 (revised in 2002-2008) fits the plans. Thus, the Customs Service organises periodical roundtables with Transnistrian economic agents to explain them the process of certification of rules of origin for exports. This way, authorities try to motivate companies from the Transnistrian region to get registered periodically or permanently with the State Certification Chamber of Moldova and provide full information and access to their offices in exchange for origin certificates which provide a preferential access to the EU market.
- The Customs Service assures that it meets EC and EUBAM recommendations on certification and control of rules of origin with regularity. In this respect, the draft law seeking the amendment and completion of the Customs Code and the law on customs tariff with the view to equally apply the rules of origin in all territory of the country and their adjustment to the community legislation was approved by competent institutions and sent to the Government in order to approve it.
- Fifty-six inspections were organised in the first three quarters to let customs officers from post-customs audit stations and sections in charge with regulating certificates of origin check certificates of origin. However, these actions have no connection with the fulfilment of EU recommendations, but are rather some daily activities of the Customs Service.
- The Government hosted a special sitting on the Transnistrian problem in October 2011, which particularly focussed on exports via eastern regions of Moldova. In particular, the sitting discussed the EUBAM recommendation on elaboration of a mechanism to export goods by trains, which was backed by the Customs Service.

**Monitoring table 10. Progress in implementing actions in the area "Rules of origin" planned for the 3<sup>rd</sup> quarter of 2011.**

Action	Progress / Regress /Comments
Continuous enforcement of Government Decisions No 815 of August 2, 2005 and No 1001 of September 19, 2001 in all Moldova.	Is being developed.
Ceaseless fulfilment of relevant EC and EUBAM recommendations on certification and control of origin of goods.	Is being developed. Priorities indicated by EUBAM in the progress report on activity of this institution for 2005-2010 <sup>38</sup> are effective. They seek an effective customs control, strengthening of capacities, prevention of frontier crimes, management of customs incomes, anticorruption measures, integrated border management, contribution to settlement of the Transnistrian conflict and rise of public visibility.
Reinforcement of the customs audit function needed to check the origin of goods.	Hard to estimate. The reporting of controls has no connection with the strengthening of the customs audit function. At the same time, no important actions by the Customs Service in this respect were reported in the period concerned.

### **Assessment of progress**

A modest progress was observed in Area 7. Enjoying a strong support from EUBAM, the Customs Service continued to enforce Government Decisions No. 815 of 2 August 2005 and No. 1001 of 19 September 2001 in all territory of Moldova, as planned. At the same time, the draft law on modification and completion of the Customs Code and law on customs tariff was approved by competent institutions and delivered to the Government in order to be approved. On the other hand, no actions capable to meet priorities of the progress report on EUBAM activity were observed. Finally, strengthening the customs audit function to check the origin of goods is a priority so far.

### **Recommendations**

- A deeper and more productive cooperation between the Customs Service and the Ministry of Economy is required, as they are key institutions targeted by the process of improvement of the framework on rules of origin.
- Like the precedent quarter, recommendations concerning the implementation of electronic solutions in business processes of the Customs Service at a larger scale, simplification of customs procedures and consolidation of customs audit capacities by using new control equipment, better circulation of information and documents inside of the Customs Service, and exchange of information with other services are effective.

<sup>38</sup> Progress Report 2005-2010 „Main achievements in Border Management by Partner Services in Five years of EUBAM activity”, <http://www.eubam.org/files/AOSU%20Progress%20Report%20final.pdf>

## Area 8. FINANCIAL SERVICES

### *Analysis of current situation*

The general situation in the financial sector, both banking and non-banking is improving concomitantly with the economic re-launch and financial condition of businesses and individuals. At the same time, systemic problems are linked to underdeveloped capital market, poor competition between banking and non-banking sectors, and limited rights of creditors. A distinct problem which has recently become a hot topic in society is related to protection of shareholders' rights in the context of recent attempts to take over in a hostile manner the shareholders of some banks and an insurance company, with the participation of certain offshore businesses under some doubtful judgments. This case revealed both a faulty monitoring and supervision by CNPF, which is in charge with monitoring state securities deals inclusively, and shortcomings of the Moldovan judiciary. Such practices hit the confidence of foreign and domestic investors in state institutions, and the business environment in general.

### *Monitoring of specific actions*

Competent bodies reported the following actions in the banking financial sector for the 3<sup>rd</sup> quarter of 2011:

- The periodical training of employees of the National Bank of Moldova with the participation of foreign experts to implement the International Financial Reporting Standards (IFRSs) and Basel III regulations, bank supervision and risk management principles. At the same time, seminars on requirements and prospects to implement the IFRSs took place.
- The draft law concerning the National Commission of Financial Market (CNPF) which is expected to replace the law in force was submitted to the Government in order to be approved, after being debated and approved by relevant institutions.
- The new draft law on capital market, which sees the transposition of EU directives afferent to this area, was consulted with competent institutions and delivered to the Government in order to be approved. It was assessed by foreign experts and seeks the opening of the domestic capital market to professional participants (PP) from EU. Thus, PPs who hold licences issued by relevant EU authorities will not need any other licence to provide investment services in Moldova. Another important measure foresees the transposition of the EU directive on minimum necessary capital of 50,000 Euros for PPs on this market. It will be gradually introduced within 10 years after the enforcement of this law.
- CNPF Decision No. 31/5 as of 28.07.2011 concerning the approval of the concept on integration of the National Securities Depository of Moldova into the Automatic System of Interbank Payments was published. The decision aims to modernise the clearing system accordingly to international practices, to prevent systemic risks of securities deals, to boost confidence of investors towards investments in securities, and make conditions for circulation of state securities maturing in more than one year on exchange market.
- On September 19, 2011, CNPF opened public consultations on the draft law concerning the micro-financing organisations. The draft aims to tighten the framework regulating micro-financing operations, with the view to reduce systemic risks and protect rights of service consumers. Key stipulations aim to set a maximum amount of microloans (120,000 lei), to entrust the supervisory authority to authorise activity of micro-financial organisations by establishing a minimum initial joint stock (120,000 lei), to prohibit the attraction of

reimbursable funds from individuals and to empower the supervisory authority to regulate and supervise activity of micro-financial organisations.

**Monitoring table 11. Progress in implementing actions in the area "Financial services" planned for the 3<sup>rd</sup> quarter of 2011.**

Action	Progress / Regress /Comments
Training employees of the National Bank of Moldova with the participation of foreign experts.	Is being developed.
Organising seminars, roundtables for bank community and publishing related guidelines for population.	Is being developed.
Implementing the development strategy of non-banking financial sector for 2009-2011.	Is being developed.
Working out a draft law on capital market to meet international standards and the acquis communautaire.	Accomplished.
Working out a draft law concerning the micro-financing.	Accomplished.

### *Assessment of progress*

A pretty good progress was generally observed in this area. Thus, competent authorities succeeded to respect the preset action plan. However, there are some questions regarding the draft law on micro-financing. Or, its content has no connection with the process of European integration of Moldova. Hereby, the draft law particularly contravenes to Directive No. 2006/48/EC of the European Parliament and Council of June 14, 2006 relating to the taking up and pursuit of the business of credit institutions. According to the directive, credit institutions are businesses which provide credits on their own and receive deposits or other reimbursable funds from individuals, an activity that CNPF intends to prohibit via this draft law. This way, the draft runs counter EU principles and cannot facilitate the development of the non-banking sector and attract foreign investments in the area.

### *Recommendations*

- The draft law concerning the micro-financing activity should be revised, with the purpose to meet all relevant European directives. CNPF must find the equilibrium capable to provide an efficient supervision of the sector and maintain a favourable framework for its development. Plans to limit the size of provided credits and prohibit the attraction of reimbursable funds from individuals are clear examples of exaggerated involvement of state institutions into activity of businesses. CNPF should rather focus on strengthening the legal framework and rules of the game in this sector by introducing clear and transparent supervisory norms.
- NBM must mobilise efforts and internal resources to pay more attention to researching, especially in terms of implementation of the Basel II and Basel III regulations, analysis of driving mechanisms for monetary policy, stress-test analyses, etc. Such researches should be permanent and should not depend on financial support of foreign donors.

## Area 9. INTELLECTUAL PROPERTY RIGHT

### *Analysis of current situation*

Although one may definitely say that the intellectual property area in Moldova has made a relatively good progress, and some actions were launched yet in 2010, a more decisive intervention is required in some fields. This remark is particularly addressed to the Customs Service, which is a key player in protecting intellectual property rights but its modernisation demands huge efforts and relatively much time.

### *Monitoring of specific actions*

Actions launched early this year continued in the 3<sup>rd</sup> quarter, with some of them having a pretty positive end:

- An information desk<sup>39</sup> was built as part of AGEPI in July to ensure the exchange of information between authorities in charge with protecting intellectual property rights, and to collect and redistribute reports, surveys and statistics on intellectual property rights to players concerned. The opening of this information desk is important, but its utility will be proved by its functioning modality. Unfortunately, there are many examples of forced opening of some institutions in Moldova following external commitments, but they became functional much later than set.
- Measures aimed to strengthen capacities of the Customs Service to protect intellectual property rights were developed. In particular, The Twinning Project „Support to implementation and respect of intellectual property rights in the Republic of Moldova” organised several trainings for customs authorities, inspectors, and employees of post control services in September. Trainings are welcome, but they should be accompanied by other measures, given the participation of little staff of the Customs Service in trainings, while this service faces other problems, too, which could jeopardise the whole process (ex. corruption).
- After the interdepartmental working group in charge with protection and secret of data during registration, testing and homologation of pharmaceutical, agrochemical and phytosanitary products containing new chemicals was established, it started studying the legal framework in the area. In this respect, a draft law on modification and completion of some legislative regulations concerning the protection of data in this area was worked out.

***Monitoring table 12. Progress in implementing actions in the area “Intellectual property right” planned for the 3<sup>rd</sup> quarter of 2011.***

Action	Progress / Regress /Comments
<b>Building and endowing an information service as part of the State Agency for Intellectual Property (AGEPI) to ensure information exchanges between authorities in charge with protection of intellectual property rights and to work out reports, analytical and statistical researches in the area.</b>	Done.
<b>3. Training customs organs to</b>	Is being developed. Several trainings took

<sup>39</sup> Order No. 111 from 29.07.2011 by AGEPI Director-General.

<b>improve actions aimed to protect the intellectual property at border.</b>	place.
<b>4. Assessing Moldova's legislative framework on protection and secret of data during record, testing or homologation of pharmaceutical, agro-chemical and phytosanitary products containing new chemical components, and identifying the laws to be modified.</b>	Is being developed. The legislative framework in the area is being considered.

### *Assessment of progress*

A relatively important progress was made in the intellectual property area in the 3<sup>rd</sup> quarter. AGEPI built the information exchange service. Meantime, customs officers are being trained. However, more efforts and a continuity of actions are needed for a positive impact.

### *Recommendations*

Despite the great progress in the area, following actions are further important:

- Ensuring the functionality of the information service, so that to be really operational. For this purpose, ministries, AGEPI, Customs Service and NBS shall cooperate at a high level;
- Harmonising in continuation the legislation on invention brevets, trademarks and the customs legislation;
- Strengthening in continuation the capacities of the Customs Service by organising more trainings as part of the Twinning Project;
- Strengthening capacities of the National Commission for Intellectual Property to take over some activities from AGEPI, especially those relating to implementation of legislation.

## Area 10. PUBLIC PROCUREMENTS

### *Analysis of current situation*

The current situation did not essentially change compared with precedent issues of Euromonitor. The Action Plan on Development of Public Procurements (PADAP) for 2010-2013 was worked out by the Agency for Public Procurements and delivered to the Ministry of Finance for examination yet in May. A timetable for adjustment of national legislation on public procurements to the *acquis communautaire* is being drafted since the 1<sup>st</sup> quarter.

### *Monitoring of specific actions*

No specific actions were planned and implemented in the 3<sup>rd</sup> quarter. At the same time, it is worth to note that no order on approval by the Ministry of Finance of the preliminary timetable for adjustment of the national legislation on public procurements to the *acquis communautaire* was identified in the 3<sup>rd</sup> quarter (the report by the Ministry of Economy indicates Order No. 68 of 13 June 2011). The adjustment of this legislation will require changes in the normative and legislative framework, which do not rest with competence of the Ministry of Finance, and will require an efficient cooperation between a number of institutions, particularly the Ministry of Finance, the Agency for Public Procurements, and Legislative Harmonisation Centre.

### *Recommendations*

We maintain our previous recommendation on rescheduling of actions aimed to evaluate the compatibility of the entire normative and legislative framework with community regulations from the 4<sup>th</sup> quarter of 2013 to an earlier period, so that to make sure that the normative regulations adopted at level of the Ministry of Finance and Agency for Public Procurements are congruent with the national legislation and meet European directives.



## Area 11. COMPETITION

### *Analysis of current situation*

The competition area is one of most problematical aspects of the Action Plan, but things develop relatively slow. The non-coverage of competition by legislation halts a normal business development. There are many problems in standby with almost five years after the establishment of ANPC. Despite the mobilisation observed in 2011, it seems that the approach of problems does not satisfy many players concerned and the adoption of necessary legislation is late for this reason.

### *Monitoring of specific actions*

Many actions implemented in the 3<sup>rd</sup> quarter were planned for early this year. Following key aspects are worth to be noted:

- Although the new law on competition was not adopted in the 3<sup>rd</sup> quarter, hot talks on the ANPC-tabled draft law took place in the period concerned. It seems that the society does not warm the solutions brought by this draft law. Thus, while a clear methodology of establishing fines is unavailable so far, the ANPC-tabled draft law sees exaggerated and sometimes unfair fines. Another controversial and even dangerous aspect is the immediately operative nature of decisions issued by the Competition Council which is to be established. In addition, despite the very large draft law, it will be completed with a series of regulations. Like in the case of the draft law on state aid, the draft law on competition does not stipulate express what the secondary regulations will cover. Thus, the ANPC indirectly preserves very important competences by reserving the authority to decide some vital aspects of this sector after the law will be adopted. Such an approach revolts the business for sure, and the draft law was criticised for this reason, so that the Parliament could delay its approval.
- Meanwhile, international experts started working on a secondary legislation for the draft law on competition, which is very uncertain and raises revolt.
- The draft law concerning the state aid was approved by the Government and delivered to the Parliament in order to approve it.
- The concept of the strategy on development of competition legislation and policy was worked out and a medium-term action plan will be attached.
- After the Government approved the draft law concerning the modification of the law on advertising, it was delivered to the Parliament in order to be approved. Amendments seek the removal of regulations on advertising for consumers from ANPC competences. The law will regulate just the relations between legal entities.
- The Twinning Project „Support to implementation of the competition and state aid policy“ planned trainings for ANPC staff, judges and regulatory authorities for 2012.

***Monitoring table 13. Progress in implementing actions in the area “Competition” planned for the 3rd quarter of 2011.***

Action	Progress / Regress /Comments
Drafting secondary normative policies on competition in line with recommendations from the December 2009 Report “Competition Law and Policy – Law Approximation to EU standards in the Republic of Moldova”.	Is being developed. Secondary normative policies for the law on state aid and the law on competition are being drafted.
Removing regulations on advertising	Is being developed. The draft law on

<b>for consumers from competences of the National Agency for Protection of Competition.</b>	modification of the law concerning the advertising was delivered to the Parliament in order to consider it.
<b>Adoption of the new law on competition.</b>	<b>Slow progress.</b> The draft law was delivered to the Parliament, but it is bitterly criticised.
<b>Redefining the role and functions of the National Agency for Protection of Competition after the approval of the new law on competition.</b>	<b>No progress.</b>
<b>Strengthening the capacity of the National Agency for Protection of Competition and improving its functioning within the Twinning Project „Support to implementation of competition and state aid policies“.</b>	<b>Slow progress.</b> Support provided by foreign experts to work out the legislation on competition.
<b>Implementation of the new law on competition.</b>	<b>No progress;</b> the law on competition was not adopted yet.
<b>Professional training of staff of the National Agency for Protection of Competition, judges and regulatory authorities.</b>	Did not take place. Planned for 2012.

### *Assessment of progress*

The state of things did not progress much compared with the precedent periods. However, key laws on competition were not adopted yet. Even more, the draft laws concerned raise bitter criticism and revolt and they could be adopted with delay for this reason.

### *Recommendations*

Following actions are further recommended for a short and medium term:

- An in-depth analysis of European legislation and the takeover of the best practices to decide on aspects regulated by secondary regulations to the law on state aid and the law on competition. This analysis should remove existing uncertainty and should be included express into the law as annexes;
- Consideration of opportunities to include into legislation a public support to agriculture, which is still an important but vulnerable sector of Moldovan economy, either by a different approach by the law on state aid or under a distinct law;
- Strengthening of the ANPC capacity to implement the laws on competition when they will be adopted. Postponement of actions aimed to strengthen the ANPC capacity, as well as the training of other involved players (judges, regulatory authorities) could extend more the faulty process in the competition area.

## Information about implementing organisations

The **Association for Participatory Democracy ADEPT** is a nongovernment, not-for-profit, independent, and non-partisan organisation, which is acting in the Republic of Moldova. ADEPT was registered in January 2000 and gained status of an organisation working for public benefit. ADEPT is an analytical and practical centre that offers expertise in electoral and democratic processes in Moldova. The mission of ADEPT is to promote and to support citizen participation in all aspects of public life.

**EXPERT-GRUP** is an independent think tank that acts in the Republic of Moldova. Being a nongovernment organisation, EXPERT-GRUP is not affiliated politically to any party and it decides independently on its institutional strategy. The mission of Expert-Grup is to contribute to the economic and democratic development of Moldova and to consolidation of Moldova's international competitiveness. The organisation uses analyses and research at international quality standards as its practical instruments to achieve these goals. Economic policy, European integration, private and public management are the areas where EXPERT-GRUP expertise is applied.