



Republic of Moldova

PARLIAMENT

DECISION

No of

Approving the 2017-2020 National Integrity and Anti-Corruption Strategy

The Parliament adopts this Decision.

Article 1. – To approve the 2017-2020 National Integrity and Anti-Corruption Strategy, included in Annex 1.

Article 2. – To approve the Action Plans for the pillars of the 2017-2020 National Integrity and Anti-Corruption Strategy, included in Annex 2.

Article 3 – Implementation shall be carried out at the expense and within the approved budget of the authorities and the institutions involved, as well as from other sources that are not prohibited by legislation.

Article 4 – As of the effective date of this Decision, the Government Decision No 154 of 21 July 2011 Approving the 2011-2016 National Anti-Corruption Strategy (Official Gazette of the Republic of Moldova, 2011, No 166–169, Article 483), with further amendments and addenda, shall be repealed.

Article 5 – At the date of entry into force of this decision, is abrogated the Parliament Decision No. 154 of 21 July 2011 approving the National Anticorruption Strategy 2011-2016 (Official Gazette of the Republic of Moldova, 2011, nr.166-169, art.483) with subsequent amendments and addendum.

SPEAKER OF THE PARLIAMENT

Andrian CANDU

Chisinau, ... February 2017

No

NATIONAL INTEGRITY AND ANTICORRUPTION STRATEGY FOR THE YEARS 2017–2020

Chapter I.

DESCRIPTION OF THE SITUATION

The Association Agreement between the Republic of Moldova, of the one part, and the European Union and the European Atomic Energy Community and its Member States, of the other part, ratified by the Parliament of the Republic of Moldova via the Law No. 112 dated July 02, 2014, provides for the need to undertake important internal reforms, ensuring effectiveness in the fight against corruption, particularly in view of enhancing international cooperation on combating corruption, as well as ensuring the implementation of relevant international legal instruments, such as the United Nations Convention Against Corruption of 2003 (art. 4 let. e) of the Agreement). Article 16 of the given treaty provides that the Parties shall cooperate on preventing and combating organized crime, corruption, and other illicit activities, especially active and passive corruption, both in the private and public sector, including as regards the abuse of functions and influence.

The roadmap¹, assumed by the Republic of Moldova's authorities in 2016 to overpass the implementation backlogs of the Association Agreement established through commitments assumed: „*Consolidation of stability, independency, and efficiency of the institutions guaranteeing the principles of democracy and rule of law by [...] combatting corruption.*”

One of the priorities of the National Development Strategy “Moldova 2020”: 8 solutions for economic growth and poverty reduction, approved via the Law No. 166 dated 11.07.2012, is to *increase the quality and efficiency of the justice-making and to combat corruption for ensuring fair access to public goods for all the citizens.*

The Activity Program of the Government of the Republic of Moldova for 2016-2018 sets forth as a main objective the increase in the wellbeing, safety and quality of citizens' life, which is to be achieved including by eradicating corruption and guaranteeing the supremacy of law. Combatting corruption is one of the fundamental priorities of the governance program, providing for a range of complex measures targeting the following vulnerable areas: anticorruption policies, independency and efficiency of institutions; combating political corruption, strengthening the practice of transparency in the financial reporting of political parties, combating corruption in law enforcement and justice bodies, combatting illicit enrichment and confiscation of illegal proceeds from corruption and related crimes, combatting fraud in using foreign funds, oversight of property, personal interests and conflicts of interests; institutional integrity and public services on electronic platforms. One of the measures set in the Government's Activity Plan for 2016-2018 provides for the need to assess the National Anticorruption Strategy (*hereinafter referred to as the Strategy, NAS*) for 2011-2015, to extend by one year the timeline for its implementation, and to adopt a new Anticorruption Strategy for 2016-2019.

The preliminary assessment of the NAS for 2011-2015² implementation performed by independent experts from the civil society has estimated the implementation progress and the impact of the anti-corruption activities and recommended a new approach for the next policy document. The implementation progress for the NAS 2011-2015 was acknowledged as being satisfactory, the majority of actions being reported as fulfilled. A high fulfillment level was found for research, institutional, education, and public communication actions. Areas in which progress was registered are:

- more uniform court practice and significantly reduced discretionary application of criminal law for easing the situation of persons sentenced for corruption (non-dissuasive court practices as replacing criminal liability by administrative, treating the plea-bargaining agreement by the

¹ http://www.gov.md/sites/default/files/foaie_de_parcuri_privind_agenda_de_reforme_prioritare_.pdf

² http://cna.md/sites/default/files/sna_rapoarte/evaluarea_preliminara_sna_2011-2015_03.2016_0.doc

- defendant as an exceptional circumstance of acknowledging the guilt for which the sentences below minimum thresholds were applied – were practically excluded);
- effective implementation of the national anticorruption telephone lines system;
 - strengthened corruption risk assessment activities in public institutions;
 - enhanced regulatory framework in the area of public procurement;
 - strengthened political parties' financing rules, in accordance with the Council of Europe recommendations;
 - extending the use of electronic systems and platforms within operational processes of various public institutions (Integrated Case Management Programme within the judicial system, electronic customs clearing within the Customs Service, road traffic supervision within the police etc.);
 - stricter monitoring of processes within the educational system (video surveillance of final exams);
 - increased integrity standards and improved guarantees for the authorities involved in anticorruption activity (officers of the National Anticorruption Centre, prosecutors of the Anticorruption Prosecutor's Office and judges);
 - increased transparency in the activity of central public authorities (CPA) and local public authorities (LPA), of law enforcement agencies and the judiciary system.

At the same time, the assessment of the NAS 2011-2015 established that not all the performance indicators of the general objectives and the goal of NAS were achieved. Some of the indicators revealed improvements, while other registered an oscillating trend, returning to the level of the indicators at the beginning of the Strategy implementation.

Hence, the performance indicators of the overall objective of NAS 2011-2015 of "transforming corruption from a low-risk activity with benefits into inconvenient and high-risk activity" evolved in a contradictory manner: the Worldwide Governance Indicator (WGI) "*Corruption Control*" is currently declining³, while *WGI "Regulatory Quality"* has registered a slight improvement⁴. The performance indicators for the second overall objective of "contributing to creation of "zero tolerance" environment towards corruption in the Republic of Moldova" have regressed or have unclear values, due to a change in the calculation methodologies and/or abandonment of the tracing the evolutions by the source. Thus, the Global Corruption Barometer of Transparency International has established an increased share of people who bribed at least in one of the areas included in the survey: police, justice, health, education, population documentation, providing unemployment benefits, other social services⁵, while the share of people in households and business willing to offer bribes, although was not pursued by Transparency International-Moldova (hereinafter - TI-Moldova) in a manner comparable after 2010, recorded also some contradictory values: while the share of households willing to pay bribes has increased slightly, the business has significantly decreased⁶.

Also, the indicators of the goal achievement of the NAS 2011-2015, extended for 2016 registered contradictory values and evolutions: Corruption Perception Index (hereinafter - CPI) calculated by Transparency International has improved slightly in 2016 compared with 2011⁷. The estimated amount of the bribe offered by households and businessmen calculated by TI-Moldova has improved but not at the level expected⁸ by the Strategy, Global Index of Economic Freedom estimated by the

³ In spite of the improvement in 2011 and 2012, in the following years 2013-2015 WGI "Corruption Control" decreases by 0.25, reaching levels even lower than those existing at the time of the NAS launch: from -0.63 in 2011 to -0.88 in 2015.

⁴ WGI "Regulatory Quality" has improved slightly to 0.03 from -0.08 in 2011 to -0.05 in 2015.

⁵ According to the Global Corruption Barometer for 2009, the share of respondents from Moldova who offered bribes was 29%, while in 2015 - 42%.

⁶ The willingness to offer bribes among people from households increased from 64.3% in 2008 to 67.6% (+ 3.3%) in 2015, while for business people decreased from 76.5% in 2008 to 64.3% in 2015 (-12.2%).

⁷ In 2010 the value of the CPI was 2.9. In 2014 the methodology for calculating the CPI was changed so that it no longer assessed on a scale of 0 to 10, but from 1 to 100. The 2015 CPI was estimated at 33 and in 2016 - at 30 for Moldova..

⁸ The estimated volume of bribes, taking account the inflation, fell by 15.9% from 2008-2009 by the 2015 year. The planned decrease of this indicator was, however, 36.2%.

Heritage Foundation has also improved, but still not at the planned level⁹. Establishing the implementation progress of the NAS 2011-2015 through the performance indicators of the overall objectives and goal, using only external sources, which methodologies and frequency of calculation varies during implementation has caused more difficulties.

The assessment of the NAS 2011-2015 highlighted the need of a simpler architecture for the new Anticorruption Strategy, suggesting a construction based on integrity pillars from the assessment called “National Integrity System”¹⁰, carried out by TI-Moldova; hence the objectives of the new policy document should be formulated in a more concentrated manner which should target the sensitive areas which are vulnerable to corruption. Also, the new policy document should monitor the progresses based on a survey conducted periodically and based on a methodology set throughout all its implementation, and as verification sources to be used external indicators.

A constant problem reported by internal stakeholders and by the development partners of the Republic of Moldova is the concentration of the reform and policy efforts only on actions of legislative modifications and institutional restructuring, frequently omitting the component of effective enforcement of legislative and institutional changes. The new anticorruption policy document should eliminate these deficiencies and focus on effective enforcement of the legal and institutional frameworks in the area.

It is important for the new anticorruption policy document to be linked with the Sustainable Development Goals (SDGs)¹¹, adopted by the United Nations (hereinafter UN) Member States in New York during the Summit on Sustainable Development organized on September 25, 2015. The goals were included in the Sustainable Development Agenda – 2030 and were set to eliminate poverty, fight inequality and injustice by 2030. Goal 16 of the Sustainable Development Agenda – 2030 is especially important from the perspective of the new anticorruption document for the Republic of Moldova, which aims on “*promoting peaceful and inclusive societies for sustainable development, ensuring access to justice for all and creating efficient, accountable and inclusive institutions at all the levels*”. It is especially important to take into consideration the specific targets provided under this goal:

- 16.4. [...] to reduce significantly illicit financial flows [...], to strengthen the recovery and return of stolen assets [...];
- 16.5. to reduce substantially corruption and bribery in all their forms;
- 16.6. to develop effective, accountable, and transparent institutions at all levels;
- 16.7. to ensure responsive, inclusive, participatory and representative decision-making at all levels;
- 16.10. to ensure public access to information and to protect fundamental freedoms [...] and
- 16.b. to promote and enforce non-discriminatory laws and policies for sustainable development.

⁹ The Global Index of Economic Freedom has also improved by 2% in 2011-2015, although it was planned a improvement of 6.3%. Thus, the index was 55.7% in 2011, and in 2015 - 57.7%.

¹⁰ <http://transparency.md/ro/cefacem/publicatii/141-sni-2014>

¹¹ The Sustainable Development Goals were launched for the first time during the UN Conference for Sustainable Development (Rio+20) in 2012. The SDG replace the eight Millennium Development Goals (MDG) covered in the text of the Millennium Declaration adopted in September 2000 by UN. The majority of the world states got united in 2000 focusing on the commitment to reduce global poverty and to save millions of lives. The Millennium Declaration was during 2000-2015 the single global agenda in the development area, which was agreed at the highest level and which included concrete targets.

Chapter II.
THE GOAL, GENERAL AND SPECIFIC OBJECTIVES

The goal, general and specific objectives of the Strategy are:

D eterrence	<ul style="list-style-type: none"> ✓ Enhancing the anticorruption and justice agencies ✓ Targeting sectors vulnerable to corruption ✓ Increasing control over parties' financing sources 	<p>The capacity of the anticorruption and justice agencies to react will be enhanced, and thus the risks for getting involved in corruption acts will also increase. The efficient investigation skills will be developed, as well as drastic sanctioning of corruption.</p> <p><i>SDG 16.5: Substantially reduce corruption and bribery in all their forms</i></p>	<p>Goal: Integrity instead of corruption</p>
Deterrence of involvement in corruption acts - objective 1			
R ecovery	<ul style="list-style-type: none"> ✓ Focusing on recovery of assets originating from corruption crimes ✓ Ensuring the compensation of corruption victims ✓ Compensating for the damages induced for the state interest, established by audit 	<p>NAC shall get specialized in tracking, conservation and confiscation of illegal assets originating from corruption crimes, including abroad, ensuring the compensation of the persons who have suffered. The collaboration between the Court of Accounts and law-enforcement bodies shall be improved to ensure the return of damages caused by frauds and corruption in public entities, established during the audit.</p> <p><i>SDG 16.4: Significantly reduce illicit financial flows, strengthen the recovery and return of stolen assets</i></p>	
Recovery of proceeds of corruption crimes - objective 2			
E thics	<ul style="list-style-type: none"> ✓ Implementing ethical and integrity standards in the parliamentary and governmental activity ✓ Consolidating the integrity of anticorruption and justice agencies ✓ Developing the integrity rules in the activity of state and municipal enterprises ✓ Ethics in business and nongovernmental environment 	<p>MPs will implement ethical norms. An Ethics Officer will supervise the observance of such rules. The implementation of integrity standards in the public sector, including in the Government, central and local public authorities will be monitored and assessed by anticorruption agencies. Vulnerabilities to corruption in the activity of the state and municipal enterprises shall be reviewed, suggesting solutions and sanctioning violations. Models of Codes of Ethics in business environment will be developed, and companies will be fostered by the State to adopt them. <i>SDG 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels</i></p>	
Ethics and integrity in public, private and nongovernmental sectors - objective 3			
P rotection	<ul style="list-style-type: none"> ✓ Ensuring protection for integrity whistleblower ✓ Increasing the protection environment for human rights by eliminating corruption causes 	<p>The legal framework necessary for encouraging and protecting by the Ombudsman of the persons disclosing corruption acts and other on-job violations of the public interest shall be promoted. This will help to overcoming the fear of integrity whistleblowers to be persecuted by the employers. At the same time, the Ombudsman will collaborate with the NAC to reveal the cases of corruption and abuse in public entities, which induce violations of human rights, so as to ensure better protection for such rights. <i>SDG 16.10: Ensure public access to information and protect fundamental freedoms</i></p>	
Protection of whistleblowers and victims of corruption - objective 4			
T ransparency	<ul style="list-style-type: none"> ✓ Increasing transparency of the decision-making process ✓ Public parliamentary scrutiny over laws' enforcement ✓ Public access to data on financing of political parties ✓ Ensuring transparency of companies' shareholders and founders 	<p>Transparency of the decision-making process will be improved by ensuring access to the drafts sent to the Government and publication of draft laws before their adoption in the final reading by the Parliament. The interested stakeholders will be informed regarding the fate of the proposals they have submitted. A rigorous parliamentary control will be implemented over laws' implementation. Online access will be ensured for citizens to information about political parties' financing and electoral campaigns. As well, the information about founders, shareholders and effective beneficiaries of the companies will be published on-line. <i>SDG 16.6: Develop effective, accountable and transparent institutions at all levels</i></p>	
Transparency of public institutions, parties and media financing - objective 5			
E ducation	<ul style="list-style-type: none"> ✓ Educating youth, civil servants, and businessmen in the spirit of integrity and intolerance to corruption 	<p>NAC shall ensure the training of public agents so as to observe the integrity requirements. Businessmen will be trained about ethics in commercial relations and integrity in relations with the state. Anticorruption curricula will be implemented in schools and universities. <i>SDG 16.b: Promote and enforce non-discriminatory laws and policies for sustainable development</i></p>	
Education of society and civil servants - objective 6			

Chapter III.

INTEGRITY PILLARS: DEFINING THE ISSUES, MEASURES FOR ACHIEVING THE OBJECTIVES, COSTS, IMPACT AND INDICATORS

The National Integrity System (hereinafter - NIS) is supported by pillar-institutions and sectors, which arise from the society's foundation. The malfunctions of institutions and sectors compromise the NIS and the rule of law in general, affecting social welfare. The current Strategy was developed based on the assessment of the NIS¹², being built on the following integrity pillars:

- I. Parliament
- II. Government, public sector and local public administration
- III. Justice and anticorruption authorities
- IV. Central Electoral Commission and political parties
- V. Court of Accounts
- VI. People's Advocate
- VII. Private sector
- VIII. Civil society and media

For the first seven Pillars of the Strategy – the issues and the specific targets of the UN SDG 16 relevant for the pillar are described, as well as the pillar's objectives, impact indicators, priorities for overcoming problems, expected results and outcome indicators. The civil society and media (pillar VIII) play an important role in the national integrity system, which can contribute to the efficient implementation of the Strategy through independent and impartial monitoring, as well as informing the society regarding system deficiencies in an equitable manner.

The actions to be used for implementing the priorities of pillars I-VII are included in the Action Plan for 2017-2020, being focused mainly on the implementation of the laws adopted by 2017, rather on adoption of new laws.

Pillar I. Parliament

Description of the problem: In the spring of 2017 Public Opinion Survey of the residents of the Republic of Moldova conducted by the International Republican Institute (hereinafter IRI) reveals that only 23% of respondents have a favorable opinion about the Moldovan Parliament.¹³

Although being under the incidence of general integrity rules, the rules of ethics and professional conduct of MPs were not yet adopted and implemented within the legislative body. According to the latest Assessment Report of the Council of Europe Group of States against Corruption (hereinafter - GRECO) of Moldova from 1 July 2016, recommended the adoption and implementation of a code of conduct for MPs¹⁴.

Besides the regulatory competence, the Parliament has as well another essential role for the anticorruption processes: parliamentary control over the implementation of laws and functioning of independent institutions – a role which was neglected for the time being by all the legislatures. At the same time, the various public opinion surveys conducted over the years has indicated that population considers it necessary to improve the mechanism for laws' functioning so as to improve the social-economic situation.

¹² During 2015 the National Integrity System of the Republic of Moldova was subject to a fundamental assessment by Transparency International Moldova, in line with an international methodology applied to over 100 countries.

¹³ http://www.iri.org/sites/default/files/iri_moldova_poll_march_2017.pdf

¹⁴ GRECO Assessment Report, IVth Evaluation Round – Recommendation II: (i) Adopting a code of conduct for members of Parliament and ensuring that the future code is made easily accessible to the public; (ii) establishing a suitable mechanism within Parliament, both to promote the code and raise awareness among its members on the standards expected of them, but also to enforce such standards where necessary.

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c9b1a>

The parliamentary activity itself is more frequently subject to critics because of lack of transparency in the legislative process between the first and the second reading, without public availability of the modified drafts laws as a result of the amendments submitted by the MPs before their adoption in final reading. However, GRECO recommended to “ensure (i) that draft legislation, all amendments and all supporting documents as required by law are published in a timely manner and (ii) that adequate timeframes are followed to allow for meaningful public consultation and parliamentary debate, including by ensuring that the emergency procedure is applied only in exceptional and duly justified circumstances.”¹⁵

The Parliament has no stable practice for communicating the reasons for accepting or rejecting the proposals coming from the civil society, which most frequently are not included in the synthesis of proposals and objections submitted in relation to the draft, are not published on the web page of the Parliament, and the authors of the respective proposals do not know the fate of the submitted proposals and if they have contributed to the improvement of the laws’ quality.

Although it has developed a positive practice for accepting the registration of MPs’ initiatives, only if they are accompanied by anticorruption expertise reports, the Parliament accepts the registration of initiatives coming from other authors (for example the Government), even if they are not accompanied by such expertise. The proposals from the anticorruption expertise are not always included and published in the synthesis accompanying the draft.

Specific targets of the UN Sustainable Development Goal 16:

- Develop effective, accountable and transparent institutions at all levels (16.6);
- Ensure responsive, inclusive, participatory and representative decision-making at all levels (16.7);
- Promote and enforce non-discriminatory laws and policies for sustainable development (16.b).

Objective of Pillar I: Ensuring ethical conduct of MPs, harnessing the anticorruption role of the Parliament, increasing transparency of the legislative process and MPs’ activity

Impact indicators:

- Significantly improved trust in the Parliament;
- Diminished perception of corruption of the legislative body;
- Increased efficiency of parliamentary control;
- Improved regulatory quality.

<i>Priorities of Pillar I:</i>	<i>Expected results:</i>	<i>Outcome indicators:</i>
I.1 Promoting MPs’ ethics	<ul style="list-style-type: none"> • MPs’ violations of ethnical and conduct rules sanctioned 	<ul style="list-style-type: none"> • Duty inquiries and reports of the Ethics structure/ responsible conducted, • Sanctions applied
I.2 Enhancing parliamentary oversight	<ul style="list-style-type: none"> • Streamlined enforcement of laws and functionality of public institutions subject to parliamentary oversight 	<ul style="list-style-type: none"> • Laws subject to parliamentary oversight; • Public institutions subject to parliamentary oversight.

¹⁵ GRECO Assessment Report, IVth Evaluation Round – Recommendation I.

<p>I.3 Transparency of legislative process and anticorruption expertise</p>	<ul style="list-style-type: none"> • Ensured transparency of the legislative process at all the stages; • Facilitated public monitoring of Parliament’s activity • Decreased/excluded corruption risks identified in the draft laws 	<ul style="list-style-type: none"> • Civil society monitoring regarding the activity of the Parliament finds improvements • The laws implying corruption risks are not adopted or adopted after eliminating the risks
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Pillar II: Government, Public Sector and Local Public Administration

Description of the problem: In the spring of 2017 Public Opinion Survey of the residents of the Republic of Moldova conducted by the IRI reveals that only 27% of respondents have a favorable opinion about the Moldovan Government.¹⁶The last years were marked by pronounced political instability and frequent change of the executive. In the context of media-coverage of governmental officials’ involvement in the fraud in the financial-banking sector during 2013-2014, the civil society has insisted on the new members of the cabinet of ministers to sign integrity arrangements and on special services to verify the candidates, and subsequently – the holders of the public positions.

Unlike the Parliament, the Government did not implement a system of tracking the transparency of draft normative acts sent to the Government for adoption, as they are posted on the web page of the executive body only on the very days when the Government meetings take place, when the respective drafts are adopted. The adoption of draft normative acts by the Government, which were not subject to compulsory anticorruption expertise is tolerated. Hence during the period from 2009 to 2015, between 70% and 30% of draft normative acts were promoted in the Government, avoiding the anticorruption expertise. Moreover, not all public authorities from the Government introduce the anticorruption expertise objections in the synthesis.

As well, the journalist investigations carried out over the last years revealed a number of situations when the Government members, locally elected officials, and other public agents were promoting their personal interests through professional activities in the detriment of the public interest, defying the legislation in different ways. Nevertheless, neither the media disclosures nor the fact-finding acts of the National Integrity Commission, neither the status of accused or defendant in the corruption cases of the National Anticorruption Center or those of the Prosecutor’s Office, and either the conviction sentences against them did not induce, most of the times, to suspension from the held positions or to dismissals. The decision-makers from the public sector who are guilty of Republic of Moldova’s conviction in the European Court of Human Rights are not summoned to repair the damages caused to the State. In such conditions, the society receives a clear message of toleration of lack of integrity of the public administration officials, considering them to be immune of any liability.

The public sector as a whole is milled by systematic corruption. The causes of this situation are the following: losing the link between the state institutions and the citizens; political control over the staffing policies in the public sector; violation of legislation on public procurement; misappropriation of the public-private partnerships’ goals; toleration of lack of integrity among the representatives of public institutions; impunity of public agents.

¹⁶ http://www.iri.org/sites/default/files/iri_moldova_poll_march_2017.pdf

The areas of the public sector which are vulnerable to corruption either because of the high level of contact with the population, or because of the management of considerable economic interests are the following: local public administration, customs, fiscal services, education, health, roads, subsidizing in agriculture, environment, public procurement, administration and privatization of public properties, transparency and management of foreign assistance. The weaknesses of these areas are signaled in the majority of national and international assessments, attesting conflicts of interest, favoritism, corruption, reduced transparency, use of resources for political and/or private interest, plundering the enterprises with full or major state/municipal share, limitation of competition in the activity areas of state enterprises or with the participation of the state, etc. There are no special approaches dedicated to the specific corruption problems in vulnerable areas or, even if they exist, frequently these approaches are fragmentary and are not interrelated with the strategic anticorruption documents, as well as with the real problems of the sector. use of resources in political interest enterprises with ruining all or majority share of state / municipal

Specific targets of the UN Sustainable Development Goal 16:

- Develop effective, accountable and transparent institutions at all levels (16.6);
- Ensure responsive, inclusive, participatory and representative decision-making at all levels (16.7);
- Promote and enforce non-discriminatory laws and policies for sustainable development (16.b).

Objective of Pillar II: Developing the integrity, accountability, transparency, and resistance to corruption risks of the public agents, Government members, and locally elected officials.

Impact Indicators:

- Significantly improved trust in the Government;
- Improved trust in CPA and LPA;
- Significantly diminished perception of corruption of the executive;
- Sanctioned misconduct of public officials;
- Increased transparency in decision making and that of government data.

<i>Priorities of Pillar II:</i>	<i>Expected results:</i>	<i>Outcome indicators:</i>
II.1 Promotion of public entities' integrity	<ul style="list-style-type: none"> • Institutional integrity climate developed within public entities • Violations of integrity rules by public agents, including by Government members and locally elected officials sanctioned 	<ul style="list-style-type: none"> • Institutional integrity assessments of the NAC and Security and Intelligence Service (SIS) published; • Sanctions applied;
II.2 Sector approach to corruption	<ul style="list-style-type: none"> • Corruption in police, customs, fiscal, environmental, public procurement, administration and change of ownership of public property, health protection and health insurance, education, and legal order reduced 	<ul style="list-style-type: none"> • Improved level of perception and/or experiences of citizens and businessmen in police, customs, fiscal, public procurement, administration and change of ownership of public property, health protection and health insurance,

		education and legal order
II.3 Transparency and responsibility to citizens	<ul style="list-style-type: none"> • Transparency in promotion through the Government of the draft normative acts ensured; • Quality of public services increased • Corruption risks identified in draft laws and Government decisions decreased 	<ul style="list-style-type: none"> • Draft normative acts posted on the web page of the Government; • Public services rendered on electronic platforms; • Recourse proceedings related to damages induced to the State and society • Laws and Government Decisions implying corruption risks not adopted or adopted after eliminating the risks

Pillar III: Justice and Anticorruption Authorities

Description of the problem: In the spring of 2017 Public Opinion Survey of the residents of the Republic of Moldova conducted by the IRI reveals that only 28% of respondents have a favorable opinion about the justice sector.¹⁷ The ambitious justice reform launched at the end of 2011 was supposed to ensure sustainable consolidation of independency, responsibility, efficiency, impartiality, and transparency for the judicial system and to enhance the professionalism and independency of the prosecution service.¹⁸ Legislative and institutional changes were made. Being previously immune, judges and prosecutors were convicted for corruption crimes, being sentenced to imprisonment with real execution. In spite of these achievements, the national and international surveys reveal a decrease of the trust level for justice sector, which is perceived as one of the most corrupted sectors in the public sector. The self-administration bodies from justice sector are frequently criticized for the way in which they manage the integrity problems in the system. These deficiencies aggravate the perception of impunity and lack of professionalism of the judiciary, raising suspicions concerning corporate agreements. In light of the abovementioned, at the end of 2016 the Parliament of the Republic of Moldova has decided upon the necessity to adopt a new policy document to continue the reform of the justice sector, assigning the Government with a deadline for its presentation.¹⁹

Regarding the role of the judges in sanctioning the persons convicted for acts of corruption, the studies show that only one fifth of convicted get sanctions with real deprivation of freedom, only half of convicted people are deprived of the right to hold certain positions or to perform certain activities. The lack of a deterring nature of the pecuniary sanctions in case of corruption crimes is also a serious problem, in spite of the fact that they have been increased in 2013. Hence, the amount of the applied

¹⁷ http://www.iri.org/sites/default/files/iri_moldova_poll_march_2017.pdf

¹⁸ The Strategy of justice sector reform 2011-2016, approved under Law no.231 of 25.11.2011 and the Action plan for the implementation of the Strategy of justice sector reform 2011-2016, approved under Parliament Decision no 6 of 16.02.2012

¹⁹ The deadline of December 20, 2017, has been established by the Parliament Decision no.259 of 8.12.2016 on ensuring the sustainability of justice sector reforms

criminal fines is rather inversely proportional to the values of the requested or received bribe²⁰, while the confiscation is rarely applied due to the lack of specialization in tracing the criminal assets for confiscation and the extended confiscations is not used at all in practice by the national courts²¹. Actually, one out of four conviction sentences for corruption is depersonalized before being posted on the courts' portal, and some of them are not even posted, creating the perception that judges try to protect the corrupted persons from public blame²².

The lack of specialized judges and/or courts to review corruption acts, corruption assimilated and related acts does not allow a rapid change of the judiciary practice in relation to such cases; the corruption cases of resonance are not reviewed with celerity because of the overload of the common-law courts, and the sanctions applied in case of convictions – very rarely may be considered to be deterring. The society loses the interest for the corruption cases of resonance with a very slow examination and develops the perception of impunity for people involved in such cases, qualifying the actions undertaken at the investigation stage as “media shows” without any judicial end-point.

The courts, prosecutors' offices and specialized institutions are key stakeholders in the anticorruption fight. During the last years, all the anticorruption authorities underwent deep institutional and structural reforms²³, as a result of which their mandates were reviewed and redistributed, the independency guarantees were changed, and the procedure rules were modified. The success of such reforms will be assessed only in light of the efficiency of the administrative control over unjustified assets, fight with illicit enrichment of public officials, the final result of the justice act, the recovery of the proceeds obtained from corruption crimes, including of those hidden abroad, as well as via the compensations provided to the persons who have suffered damages because of the corruption acts.

According to the recent studies carried out by the representatives of the International Center for Asset Recovery under the Basel Institute on Governance²⁴, the Republic of Moldova should establish and enhance an authority responsible for promoting national policies in the area of parallel financial investigations (especially related to corruption and money-laundry crimes) for the purpose of recovering the illegal proceeds, facilitating the tracking and freezing the illegal proceeds in the country and abroad, so as to have the possibility to confiscate them simultaneously with the provision of conviction sentences. The study also reveals that the Republic of Moldova lacks for the time being any experience in recovery of any illegal proceeds abroad.

A problem signaled in the civil society reports²⁵ is the inadequate attention provided to compensating the persons who suffered material and moral damages through corruption. Sequestration is very rarely applied for the assets of the suspect / accused / defendant in corruption cases so as to ensure the recovery of the damages caused to injured parties. Even in case of convictions, the injured parties of corruption acts do not harness their right to obtain the compensation for the incurred damages by submitting civil actions under tort law against the employer of the person who committed corruption acts at his/her place of work, for which the person was convicted and against whom the employer

²⁰ Surveys on corruption cases and activity reports of the NAC, published on the web page www.cna.md.

²¹ A possible explanation could be the [Decision No. 6 dated 16.04.2015 on Control of Constitutionality of certain provisions from the Criminal Code and Criminal Procedure Code \(extended confiscation and illicit enrichment\)](#), which sets identical conditions for extended confiscation as in case of special confiscation.

²² Survey on sentences pronounced in corruption cases for the period 2013-2015.

²³ The National Integrity Commission, established in 2012 was reformed into the National Integrity Authority in 2016 (the reform is ongoing up to March 2017, with the existence of the Integrity Council only, which is to select the future leadership of the Authority), the Center for Combatting Economic Crimes and Corruption was reformed in 2012 into the National Anticorruption Center, which, at its turn, was several times re-subordinated from the Government to the Parliament and vice-versa, the Anticorruption Prosecutor's Office created in 2005 was reorganized during 2016 within the prosecution service reform. The NIC (ANI) reform package adopted in 2016, right after its adoption and implementation was subject to criticism from the civil society and the institution subject to reform (NIC) as a result of several deficiencies and gaps identified. In these circumstances, it seems that the NIC (NIA) reform will be not completed.

²⁴ “Analytical Study on mechanisms for recovery and confiscation of assets in the Republic of Moldova”, Pedro Gomes Pereira, June 2016, carried out with the support of the UNDP-Moldova and the Norwegian Ministry of Foreign Affairs.

²⁵ The CAPC Survey about the level of transposition into the national legislation of the Civil Law Convention on Corruption of the Council of Europe. New solutions and approaches for combatting corruption. <http://capc.md/ro/publications/>

may subsequently submit recourse proceedings, under the conditions set in the civil legislation, of the Civil Law Convention on Corruption of the Council of Europe and the UN Convention against Corruption²⁶.

Treating corruption through solid repressive methods may improve the population perception, but cannot reduce considerably the phenomenon as such. The enforcement of corruption prevention and educative measures is also very important. In spite of the big number of training activities and anticorruption awareness raising actions carried out by the NAC²⁷, the schools and universities are lacking anticorruption curricula, and the young generations are not systematically educated in the spirit of integrity and intolerance to corruption. Performing anticorruption proofing of the draft legislative and normative acts, the NAC succeeded to prevent damages induced to the public interest in the amount of about 200 million lei, but the same thing was not possible in the case of avoiding the expertise for certain drafts, and the failure to take into consideration its recommendations²⁸. The processes facilitated by the NAC to assess the corruption risks within public institutions end up with adoption of institutional integrity plans, which are rather passively implemented or not implemented at all by the responsible institutions, and with no accountability mechanisms, such efforts to prevent corruption do not produce the expected impact. The professional integrity testing of the public agents, on the other hand, induced an essential impact during 2014-2015, but the mechanism was partially invalidated by the Constitutional Court in April 2015. In November 2016, the testing of professional integrity, as part of the institutional integrity assessment, was reestablished as a result of the legislative modifications adopted by the Parliament²⁹. Nevertheless, this important instrument did not produce any effects over one year and a half, because of the mentioned barriers.

Specific targets of the UN Sustainable Development Goal 16:

- Significantly reduce illicit financial flows [...], strengthen the recovery and return of stolen assets [...] (16.4);
- Substantially reduce corruption and bribery in all their forms (16.5);
- Develop effective, accountable and transparent institutions at all levels (16.6);
- [...] protect fundamental freedoms, in accordance with the national legislation and international agreements (16.7);
- Promote and enforce non-discriminatory laws and policies for sustainable development (16.b).

Objective of Pillar III: Increasing the attainments of justice and anticorruption authorities in preventing, combating, and sanctioning corruption acts, improving the mechanism for recovery of assets and ensuring the compensation of persons who suffered damages because of corruption acts.

Impact indicators:

- Significantly improved trust in the judiciary, prosecution services, NAC, and the National Integrity Authority (NIA);
- Ensured independence and efficiency of the judiciary, prosecution services, NAC and NIA;
- Diminished perception of judiciary's corruption;
- Lack of corruption and no improper government influence on the judiciary.

Priorities of Pillar III:

Expected results:

Outcome indicators:

²⁶ Ratified by the Republic of Moldova via the Law No. 542-XV dated 19.12.2003 and the Law No. 158 dated 06.07.2007

²⁷ During 2015-2016 the NAC trained about 60.000 persons, of which half are public agents, and half – youth and pupils.

²⁸ The Study “Process of legislating interests: *Quid prodest?*” carried out by the NAC with the support of UNDP-Moldova and of the Norwegian Ministry of Foreign Affairs has estimated that there was averted a damage of 198.340,946 thousand lei by rejecting/withdrawing the drafts inducing prejudices, but a damage of 279.646,139 thousand lei could not be averted, by promoting drafts in spite of the anticorruption expertise findings.

²⁹ Law No. 102 dated 21 July 2016, as a result of which the Law No. 325 dated 23.12.2013 was republished.

<p>III.1 Integrity of anticorruption authorities and law-enforcement bodies</p>	<ul style="list-style-type: none"> • Tools for ensuring integrity in justice and anticorruption authorities enhanced and effectively applied 	<ul style="list-style-type: none"> • Duty inquiries, sanctions applied in relation to judges, prosecutors, NAC and NIA employees carried out
<p>III.2 Efficiency of justice and anticorruption authorities</p>	<ul style="list-style-type: none"> • Enhanced operation of anticorruption institutions; • Applying deterring sanctions for corruption 	<ul style="list-style-type: none"> • Statistics regarding convictions for corruption acts and corruption assimilated acts improved
<p>III.3 Enhancing educational measures and those for corruption prevention</p>	<ul style="list-style-type: none"> • Institutional and professional integrity standards are known and applied in public entities • Developed intolerance to corruption among pupils and students 	<ul style="list-style-type: none"> • Reports on passive corruption and undue influences lodged by public agents • Claims in relation to manifestations of corruption in schools and universities, including during final exams lodged by parents, pupils and students
<p>III.4 Recovery of illegal proceeds</p>	<ul style="list-style-type: none"> • Illegal proceeds originating from corruption acts, corruption assimilated acts and other criminal activities made unavailable and confiscated 	<ul style="list-style-type: none"> • Sentences in corruption cases order confiscation application • Letters rogatory on making unavailable illegal proceeds sent abroad and executed in Moldova
<p>III.5 Compensating the victims of corruption</p>	<ul style="list-style-type: none"> • Damages incurred by the State and persons as a results of corruption acts – repaired 	<ul style="list-style-type: none"> • Statistics on voluntary reparation of damages caused via corruption acts and corruption assimilated acts increased • Damages caused by corruption acts and corruption assimilated acts recovered on the basis of civil actions lodged by prosecutors in the interest of the state

Pillar IV: Central Election Commission and Political Parties

Description of the problem: The Central Election Commission (CEC) is a consolidated institution in the area of electoral management, which, over the last years, through the Centre for Continuous Electoral Training (CCET) developed efficient training programs, improved considerably public communication and transparency in activity³⁰. In spite of the constant positive appreciation coming from OSCE/ODIHR and the Civic Coalition for Free and Fair Elections that elections are

³⁰ National Integrity System, Moldova, 2014, Transparency International Moldova

administered efficiently, the results of the public surveys show a reduced level of trust manifested by public in relation to the organization of free and fair elections. The main critics related to this institution refer to CEC's vulnerability to political influences; limited capacities of the electoral officials from the territorial electoral bodies hierarchically inferior; lack of adequate reaction to violations of electoral legislation, particularly in the area of financing of political parties and electrical campaigns.

The activity of the political parties is an important indicator of society's democratization, having a major role in establishing and making operational the state institutions, if they become ruling parties, as well as in promoting governance alternatives, if they are in opposition. In spite of the fact that there is an important number of parties and alternation of different ruling parties, the level of trust expressed by the population in relation to political parties is not very high³¹. In 2015 GRECO concluded the procedure of compliance assessment for the Republic of Moldova for the third assessment round in the part related to transparency of parties' financing. According to the Addendum published with the second Compliance Report for the Republic of Moldova³², GRECO established that the majority of recommendations were implemented satisfactorily, referring to the need for all the violations of the rules related to general financing of political parties and electoral campaigns to be clearly defined and accompanied with efficient, proportional and deterring sanctions and which, if appropriate, could be applied after the validation of elections by the Constitutional Court. The GRECO Report also mentioned that for effective enforcement of the new rules, it is necessary *"to equip the supervision mechanism, which is currently focused within the Central Election Commission, with necessary resources for performing substantial and proactive control of financing of electoral campaigns and political parties, in general"*.

The current rules of the Law 294/2007 on Political Parties and those of the Electoral Code set forth that the CEC ensures the supervision and control over financing of political parties and electoral campaigns, collects and systematizes the biannual and annual reports regarding the financial management of political parties, reports regarding the audit of political parties, and report regarding the financing of electoral campaigns submitted by electoral candidates, as well as ensures the publishing on its official page of these information and reports.

At the same time, CEC is entitled to establish the offences related to: non-submission by political parties and electoral candidates of the reports on financial management within the deadlines and according to the format set in the law, including the submission of incomplete data in the report; non-submission within the set deadline or incompliant presentation of the financial reports of political parties, and other social-economic organizations, or electoral candidates. As well, CEC notified the competent bodies regarding the administrative and criminal offenses, and violations of fiscal legislation. Hence, based on the competences attributed by law, the CEC does not hold powers of investigating the violations of the rules for financing the political parties and electoral campaigns, but just receives the reports of the electoral candidates and publishes them on its web page. The CEC does not verify the reports, the effective donors, and does not have the capacity to detect, the potential illicit and/or dubious financing.

Specific targets of the UN Sustainable Development Goal 16:

- Significantly reduce illicit financial flows [...] (16.4);
- Substantially reduce corruption and bribery in all their forms (16.5);
- Ensure public access to information and protect fundamental freedoms [...] (16.10).

Objective of the Pillar IV: Increasing political integrity and enhancing control over financing of political parties and electoral campaigns.

³¹ http://www.iri.org/sites/default/files/iri_moldova_poll_march_2017.pdf

³² Adopted by GRECO during the 70th Plenary Reunion (Strasbourg, November 30 – December 4, 2015) [http://procuratura.md/file/Greco%20RC-III%20\(2015\)%20md%20Moldova%20addendum%20e%20RC%20public.pdf](http://procuratura.md/file/Greco%20RC-III%20(2015)%20md%20Moldova%20addendum%20e%20RC%20public.pdf)

Impact indicators:

- Improved trust in the Central Election Commission;
- Improved trust in political parties;

<i>Priorities of Pillar IV:</i>	<i>Expected results:</i>	<i>Outcome indicators:</i>
IV.1 Transparency in financing of political parties and electoral campaigns	<ul style="list-style-type: none">• Society informed about the sources of political parties' and electoral campaigns financing	<ul style="list-style-type: none">• Possible public monitoring• Financial reports of political parties, and about electoral campaigns' financing available
IV.2 Efficient control over financing of political parties and electoral campaigns	<ul style="list-style-type: none">• Ensuring access to governance for honest parties and integral politicians	<ul style="list-style-type: none">• Monitoring of the civil society and international observance missions for elections find improvements• Violations of financing of political parties and electoral campaigns, and cases of corrupting voters investigated• Administrative, contravention and criminal sanctions applied

Pillar V: Court of Accounts

Description of the problem: The results envisaged by the NAS 2011-2015³³ covered as well consolidating the Court of Accounts' capacities and increasing the impact of the audit activity, which were to be confirmed by the number of those held liable for the violations identified by the Court. The assessment of the NAS 2011-2015 implementation established that the Prosecutor's Office and the Court of Accounts did not register significant progresses in this respect³⁴, because the auditors discover signs of corruption crimes during the period when the audit is carried out, but the materials are submitted to the General Prosecutor's Office only after the conclusion of the audit report, which sends them to the competent criminal investigation bodies. The lack of collaboration between the auditors and criminal prosecution before the approval of the audit reports creates a situation where the content of those reports is known first by the people within the public entities responsible for abuse, excess of duties, corruption, etc. and this fact allows them conceale the traces of the offences. To overcome this problem, in 2016 the Court of Accounts approved a Regulation on procedures in case of identification by auditors of the risk of fraud/corruption³⁵, but for now there is no substantial practical application of new procedures.

³³ Expected result 6, Section 4.3 "Expected Results", Chapter IV "Key Elements of the Strategy".

³⁴ http://cna.md/sites/default/files/sna_rapoarte/evaluarea_preliminara_sna_2011-2015_03.2016_0.doc, page 36

³⁵ <http://www.ccrm.md/doc.php?l=ro&idc=196&id=5854&t=/Cadrul-legal/Regulamente/Regulamentul-privind-procedurile-aplicate-in-cadrul-Curtii-de-Conturi-in-cazul-identificariideterminarii-de-catre-auditori-a-riscului-de-fraudacoruptie>

The analyses and studies³⁶ focused in the activity of the Court of Accounts have also revealed problems related to the final reason of the Court of Accounts' decisions and the inconsistent accountability of the audited institutions. Some other challenges which affect the efficiency of the Court and the impact over the system of public financial management and control were mentioned: low level of trust manifested by audited entities and society in relation to the role of the supreme audit authority to watch upon and to sanction efficiently the cases of inefficient and in compliant administration of financial resources and public patrimony; lack of mechanisms for early identification of fraud and corruption risks; quality of reports; no implementation or inadequate implementation of audit reports' recommendations; non-recovery of damages identified in the Court's reports; lack of regulations on auditing some areas with major impact for the society; problems related to transparency of institution's activity in audits' planning, reporting the activity of the Court of Accounts and non-auditing by independent audit institutions.

The coordination of foreign assistance over the last two years registered a number of drawbacks, mainly due to political instability, as well as due to reasons imputed to the authorities which were entrusted with sector coordination of assistance. Under these conditions, a new challenge for the Court of Accounts is the supervision of the mechanism for managing foreign assistance³⁷.

Specific targets of the UN Sustainable Development Goal 16:

- Significantly reduce illicit financial flows [...], strengthen the recovery and return of stolen assets [...] (16.4);
- Substantially reduce corruption and bribery in all their forms (16.5);
- Develop effective, accountable, and transparent institutions at all levels (16.6).

Objective of Pillar V: Enhancing the capacities of the Court of Accounts of preventing corruption in the area of administration of financial resources and use of public patrimony, as well as of foreign financial assistance.

Impact indicators:

- Improved trust in the Court of Accounts;
- Ensured audit independence of the Court of Accounts;

<i>Priorities of Pillar V:</i>	<i>Expected results:</i>	<i>Outcome indicators:</i>
V.1 Transparency of Court of Accounts' activity	<ul style="list-style-type: none"> • Increasing the quality of the Court of Accounts' activity 	<ul style="list-style-type: none"> • Monitoring by the civil society regarding the Court of Accounts' activity find improvements
V.2 Impact of the audit activity	<ul style="list-style-type: none"> • Ensuring integrity of public funds and foreign assistance 	<ul style="list-style-type: none"> • Sanctions for acts of corruption established based on the information submitted by the Court of Accounts applied • Recovered damages caused to the State

³⁶ Transparency International Moldova "National Integrity System, Moldova 2014"; Transparency International Moldova "Monitoring the implementation of the Court of Accounts' decisions: MIA case"; Expert Grup "Monitoring the enforcement of the Court of Accounts' Decisions for 2014" <http://www.expert-grup.org/ro/biblioteca/item/1182-studiu-monitorizare-cc-2014&category=180>

³⁷ <http://www.expert-grup.org/ro/biblioteca/sectorul-public/item/1332-despre-cum-se-pierd-banii-publici&category=180>

Pillar VI: Ombudsman (People’s Advocate)

Description of the problem: According to the US State Department Report on Human Rights’ Situation in the Republic of Moldova for 2015: “*The widespread corruption continued to be the most important problem for implementation of human rights*”³⁸. Any corruption act, regardless of the form it has – bribing, negligence, excess or abuse – involves as well violation of human rights. The Ombudsman (People’s Advocate) has a key role in ensuring the observance of human rights and its mission is to prevent human rights’ violation via monitoring and reporting over the way in which the fundamental human rights and freedoms are respected at the national level, through improvement of legislation related to the area of human rights and freedoms, via international collaboration, as well as via promotion of human rights and freedoms and the mechanisms of their defense.

Most of the times, the rights of the citizens are affected by the deficient administration and bureaucracy in the public institutions, administrative irregularities, inaccuracies, discrimination, persecution from superiors, abuse of power, lack of response and reaction from authorities, as well as authorities’ refusals or unjustified delays to provide such information. It is the duty of the Ombudsman to get ensured that the officials and the public authorities know and apply the legislation provisions in the area of human rights, and the public servants perform their duties in line with the principles of efficient administration. The Ombudsman investigates the activities of the officials and authorities based on the citizens’ claims, addresses the Parliament warning petitions about violations of citizens’ rights by a public authority or institution.

The persecution of the persons who denounce or warn for public interest purpose about the perpetration of irregularities, abuses, violations within institutions is of great concern. Currently, no public authority has assumed itself the function to protect and to represent the interests of the persons who denounce/warn about the potential corruption acts and other illegal practices. Hence, the fundamental rights of the whistleblowers are seriously affected (right to work, right not to be discriminated, right to a fair trial, etc.), hence demotivating other persons to get opposed to corruption and illegalities.

Specific targets of the UN Sustainable Development Goal 16:

- Develop effective, accountable, and transparent institutions at all levels (16.6);
- Ensure public access to information and protect fundamental freedoms [...] (16.10);
- Promote and enforce non-discriminatory laws and policies for sustainable development (16.b).

Objective of Pillar VI: Developing the Ombudsman’s functions to prevent corruption by making the public institutions accountable for observing human rights and ensuring protection of integrity whistleblowers.

Impact indicators:

- Improved trust in the People’s Advocate (Ombudsman);
- Ensured observance of fundamental rights;
- Diminished share of people who do not denounce corruption out of fear.

<i>Priorities of Pillar VI:</i>	<i>Expected results:</i>	<i>Outcome indicators:</i>
VI.1 Preventing corruption for ensuring human rights’ observance	<ul style="list-style-type: none"> • Observance of human rights within public entities 	<ul style="list-style-type: none"> • Development partners’ reports on human rights’ situation in the Republic of Moldova find improvements

³⁸ <http://www.state.gov/documents/organization/253089.pdf>

		<ul style="list-style-type: none"> • The risks to human rights abuses through corruption found in NAC reports on assessing institutional integrity addressed to the assessed entities
<p>VI.2 Protecting the fundamental rights of integrity whistleblowers</p>	<ul style="list-style-type: none"> • Encouraging the employees to denounce corruption and frauds 	<ul style="list-style-type: none"> • The regulatory framework regarding the procedure of whistleblowers' protection drafted and adopted • Whistleblowers who requested protection and were taken under the protection of the Ombudsman • Ombudsman's reports submitted to the Parliament • Monitoring by the civil society regarding the Ombudsman's activity finds improvements

Pillar VII: Private Sector

Description of the problem: The Report for Assessing the Compliance of the National Anticorruption System of the Republic of Moldova with the main international standards in the area of combatting corruption and ensuring integrity³⁹ launched in October 2016 revealed the destructive effects of corruption over the private sector. According to the World Bank survey carried out in 2015 on the Ease of Doing Business in the Republic of Moldova, in spite of the progress reported in some sectors, the efforts to combat corruption, to increase transparency in decision-making process, to reduce bureaucracy and to respect the rule-of-law state did not produce for the time being any significant improvements of the investment climate.

Corruption risks are found in areas of regulating import and export operations, competition protection, housing construction, public-private partnerships, corporate governance, especially in enterprises with full or majority state/municipal shares, etc. Over the last years, the frauds in the financial-banking sector associated with lack of transparency among shareholders, corruption and money laundry have generate deep disappointment and lack of trust of the population in relation to the political class, as well as considerable risks for the national security.

The corruption costs in the private sector are huge, affecting the quality of procured goods and services provided to the population, competitiveness and market economy rules, investment process and national public budget. The bribes paid by the economic units and clientelistic influences for obtaining public procurement contracts determine the fraudulent increase of such contracts' cost in the detriment of provided services' quality and delivered goods. The economic agents and the public agents, as well as the political actors establish illicit relations for obtaining public procurement contracts and financing for political parties.

³⁹ Report contracted by UNDP within "Strengthening the Corruption Prevention and the Analysis Functions of the National Anticorruption Center (NAC)" Project, implemented with the financial support of the Norwegian Ministry of Foreign Affairs.

According to the survey regarding the perception and personal experience of households and businessmen in relation to corruption, the total value of the bribes paid by businessmen in 2015 accounted for 381 million lei (about 19 213 million USD).

The level of ethical standards of the small enterprises is low. The majority of big enterprises do not apply the rules of ethical corporate management. According to the Economic Freedom Index 2016, provided by Heritage Foundation, the Republic of Moldova is ranked on the 117 place out of 178 countries. The survey points out corruption as one of the main challenges, mentioning that bureaucracy and lack of transparency are factors which mark up and complicate the launch and operation of business in the Republic of Moldova. According to the Global Business Bribery Risk Index, concluded by the association of nongovernmental enterprises TRACE International, the Republic of Moldova is ranked on the 130 place out of 197 countries. The highest score (70) was attributed to the interaction with the Government, the Republic of Moldova being ranked in the group of the countries with high level of corruption risks.

The interaction of the private sector with the public sector frequently emerges in situations of “revolving doors”. The public sector exponents easily get transferred in private sector, previously controlled by them when being in the position of public agent, which leads inevitably to the appearance of situations of favoritism, conflicts of interest and use of confidential and duty information in the interests of private persons, in the detriment of public interest. The restrictions imposed by the legislation are not respected and there is no mechanism for verifying and imposing the public servants to state about the transfer offers to the private sector which he got and intends to accept, as well as no modalities to monitor and rash such situations generating abuses.

The political influences on the appointment of the management and control boards of the state and municipal enterprises, as well as the reduced management capacity of these enterprises is usually associated with favoritism, conflicts of interest and abuses. The lack of transparency in administration and management of these enterprises with full or majority state/municipal shares, the lack of liability for the deficient administration denotes the existence of big problems in the corporate governance in the enterprises with the participation of the state and local public administration.

Regulating the requirements for legal entrepreneurship activity and criminalizing the corruption acts in private sector, including by establishing the criminal liability of the legal entities for the committed corruption act is not enough to solve the problem of corruption in the private sector. It is absolutely essential for the commercial organizations also to take up a pro-active role of integrity and corporate transparency.

A source of inspiration for building the ethics and increasing corporate culture is the new international standard ISO 37001:2016 “Anti-bribery Management Systems. Requirements with guidance for use”, meant to support the organizations to avoid and manage the risks/costs/damages which may be caused by corruption, to promote trust in business and enhance their reputations.

Specific targets of the UN Sustainable Development Goal 16:

- Substantially reduce corruption and bribery in all their forms (16.5);
- Significantly reduce illicit financial flows [...], strengthen the recovery and return of stolen assets [...] (16.4).

Objective of Pillar VII: Promoting a competitive, fair business environment based on corporate integrity standards, transparency and professionalism in interaction with the public sector;

Impact indicators:

- Diminished risks of corruption and decreased level of bribery in the private sector;
- Ensured corruption-free business;

- Reduced risk of money laundering.

<i>Priorities of Pillar VII:</i>	<i>Expected results:</i>	<i>Outcome indicators:</i>
VII.1 Transparency of private sector in relations with public sector	<ul style="list-style-type: none"> • Preventing the promotion of interests of the economic units affiliated with the exponents of the public and political environment which have commercial relations with the state: public-private partnerships, concessions, privatizations, public procurements, etc.; • Preventing money laundry for money originating from corruption; • Facilitating recovery of illegal proceeds originating from corruption 	<ul style="list-style-type: none"> • Journalist investigations / criminal investigations regarding the effective beneficiaries from the public and political environment of the public-private partnerships, concessions, privatizations, public procurements, etc., carried out and sanctions applied
VII.2 Increasing integrity in the activity of enterprises with full or majority state/municipal shares	<ul style="list-style-type: none"> • Preventing promotion of private interests of the public officials in the enterprises with full or majority state/municipal shares under the control of public entities they lead 	<ul style="list-style-type: none"> • Profitability indicators of enterprises with full or majority state/municipal shares improved
VII.3 Business ethics	<ul style="list-style-type: none"> • Ensuring competitive, free, fair and honest environment for the private sector 	<ul style="list-style-type: none"> • Sanctions applied to the exponents of the business environment for active corruption, giving and taking bribes, trafficking in influence, and abuses

Chapter IV.

THE PREMISES OF EFFICIENT IMPLEMENTATION

The efficient implementation of the Strategy requests the existence of certain premises. The previous policy document, NAS 2011-2016, has foreseen five such premises, but the evaluation of its implementation showed that the majority of the premises were not observed: the political will has not materialized every time, several laws were not approved/adopted, the parliamentary control has not been realized; effective implementation also has not been fully realized, many of the implementing authorities showed a formalistic approach; the flexible approach was not fully ensured and the financial coverage was one of the main shortcomings for implementing the NAS 2011-2015.

Another problem revealed during the implementation of the previous anticorruption policy document was the inclusion of certain measures planned by it in other policy documents, especially those for the justice sector reform and public administration reform, with differences deadlines, responsables and indicators. These unrelated duplications have created confusions and sometimes have even compromised the implementation of the measures taken so that they remained unimplemented in all these strategies.

Based on the experience of the previous strategies application, for implementing the current Strategy it is important to recognize and respect the following premises:

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- ***Stability and political will.*** The activity of preventing and combating corruption, and implicitly, the citizens' perceptions about the phenomenon spreading are highly influenced by the events occurring in the political space. The constant, but incoherent restructurings of the anticorruption authorities and normative framework governing their activity, shows that the political influences seriously affected the functionality of these institutions and have constantly fed the mistrust of the public for the respective institutions, as well questioning the integrity of those who should counter this offence. From this perspective, it is important to eliminate any influence of the political aspects on the anticorruption authorities, with the manifestation of the political will only at the stage of adopting the necessary laws to ensure an efficient and credible national integrity and anti-corruption system, as well as at the stage of parliamentary oversight of the laws and warning the authorities to implement them adequately.

- ***Financial assurance.*** The implementation of the policy documents implies certain expenses. The lack of a financial support for covering the costs for the measures promoted by the current Strategy may compromise its final purpose, the achievement of the foreseen objectives and expected results. Hence, it is important to provide sufficient financial means which would be identified and approved as a component part of each institution's own budget, as well as attracting support for the Strategy implementation from other sources permitted by law.

- ***Assuming responsibilities of the pillar-institutions.*** Together with the adoption of the Strategy, the Parliament, Government and LPA, judiciary and anticorruption authorities, Central Election Commission, Court of Accounts and Ombudsman should assume the role of an active promoter of the Strategy's aim and objectives. It is important that the pillar-institutions, according to their competencies to come up with the necessary pressure on the implementing authorities, responsible for carrying out the measures set in the Strategy, in order for ensuring that all the planned actions are implemented fully and within the set deadlines.

- ***Public control, independent and impartial monitoring.*** However, the effectiveness of the strategy implementation will depend on the contribution of the civil society and the media, also part of the National Integrity System of the Republic of Moldova. Thus, besides the submission of official reports by the responsible institutions to the Secretariat of the monitoring groups, it is important for the civil society and media pillar to directly contribute to the monitoring of the implementation of the action plans by other pillar-institutions and present alternative reports to the official ones developed by the authorities. Important premises in this respect are freedom, independence, transparency, integrity and credibility of NGOs and media institutions.

- ***Complementary approaches and avoidance of duplication.*** To the extent to which the actions planned for the implementation of the current strategy are useful to other national policy documents the legislator in action plans for achieving these will only provide complementary actions, given the terms, responsible entities and indicators settled in the action plans of the Strategy. In all the cases, there should be avoided duplication, which will create confusions in the implementation by the responsible authorities or exoneration from any liability for implementation.

Only with the presence of all the mentioned premises, the implementation of strategy measures will produce the desired impact indicators foreseen in Chapter III.

Chapter V. MONITORING AND REPORTING PROCEDURES

The purpose and objectives of the Strategy shall be achieved by implementing the action plans provided for in the integrity pillars. The implementation of the action plans shall be monitored by monitoring groups, the activity of which is facilitated by a Secretariat provided by NAC. The dynamics of the strategy impact indicators shall be measured by means of an annual survey. The strategy implementation assessment reports shall be open to public, the final evaluation report shall be debated on in the Parliament, which will approve a decision based on it.

The Action Plans of pillars I-VII of the strategy shall be organized according to priorities, setting the actions, the deadlines, the responsible institutions, the progress indicators, the general correlative objectives, the costs/source of financing and sources of verification. The Action Plans shall be approved for the entire action period of the strategy.

The annual assessment of implementation of the Strategy will be discussed annually in Committee for national security, defense and public order after which it will be heard in the Parliament which will approve a decision based on it.

Up to the mid-term implementation of the Strategy, the Parliament Standing Committee for national security, defense and public order, consults with the support of the Secretariat of the Monitoring Groups the responsible institutions and other interested parties in order to check the actuality and accuracy of the planned actions and shall decide, if appropriate, whether to submit to the Parliament proposals to amend and supplement the action plans for each pillar. Concurrently, the action plans shall be completed, in the case of permanent actions which require the periodic evaluation of progress indicators, with the indication of the goal to be reached in comparison to the values of the progress indicators register up to the mid-term implementation of the Strategy.

Prior to the expiration of the Strategy's implementation deadline, the Committee decides upon the opportunity to extend the Strategy's implementation period.

The strategy **monitoring groups** shall consist of heads of the institutions that implement the pillars they monitor. The strategy monitoring activity shall be conducted by 3 groups as follows:

Monitoring group 1 – responsible for pillars: I. The Parliament and IV. The Central Electoral Commission and political parties. Monitoring group 1 consists of:

- The Speaker and the Deputy Speaker of the Parliament;
- The Chairpersons of the Standing Parliamentary Committees;
- One representative each from the fractions which do not hold leadership positions within Parliament standing committees;
- The Chairperson, the members and the secretary of CEC;
- Representatives of 5 non-parliamentary parties;
- Representatives of 4 non-governmental organizations.

Monitoring group 2 – responsible for pillars: II. The Government, the public sector and the local public administration, and VII. The private sector. Monitoring group 2 consists of:

- Prime Minister;
- Members of the Government;
- Chairpersons of LPA authorities of grade II out of minimum one third of the districts from the Central, North and South regions (participation by rotation);
- Mayors of Chisinau, Balti and Comrat municipalities;
- Chairperson of the Chamber of Commerce and Industry;

- One representative each from the National Trade Union Confederation and the National Confederation of Employees;
- Representatives of 6 non-government organizations.

Monitoring group 3 – responsible for pillars: III. Justice and anti-corruption authorities, V. Court of Accounts, and VI. The Ombudsperson. Monitoring group 3 consists of:

- The Chairperson and 3 designated members of the Superior Council of Magistracy;
- The Chairperson and 3 designated members of the Superior Council of Prosecutors;
- The General prosecutor and his deputy prosecutors;
- The anti-corruption prosecutor and his deputy prosecutors;
- NAC Director and Deputy Directors;
- NIA Chairperson and Deputy Chairpersons;
- SIS Director;
- The Court of Accounts Chairperson and members;
- The People’s Advocate (Ombudsperson) and the Secretary-General of the Office of the People’s Advocate (Ombudsperson's Office);
- Representatives of 4 non-government organizations.

The observer status besides the monitoring groups may be held by the policy advisers for the pillar-institutions, representatives of other public institutions, of international institutions and of the diplomatic corps, based on their request in this regard.

The monitoring groups’ meetings shall be held twice a year: each of the 3 monitoring groups shall publicly hear the progress and difficulties in implementing the due actions planned according to the Strategy.

The monitoring groups’ meetings shall be hosted by one of the pillar institutions falling under the responsibility of that group. Meetings shall be chaired ex officio by the host institution management. During the monitoring group’s meetings, the head of the institution that hosted the last meeting shall be the Chairperson of that Group, until the next meeting hosted by another institution from the pillars monitored by the group.

The Secretariat shall coordinate the hosting of each meeting in advance with the institutions from the pillars, distribute the agenda, the monitoring and assessment reports, and other materials to all members of the Group 10 days before the meeting. The Secretariat and the institution hosting the monitoring group’s meeting shall post an announcement about the conduct of the meeting on the NAC websites and on the websites of the institution concerned, at least 3 days before the date that the meeting is to take place on. The monitoring groups’ meetings shall be public.

During the meetings, the strategy implementation monitoring and assessment reports shall be heard, which will be presented briefly by the Secretariat. The representatives of pillar institutions, the activity of which was concerned, may make amendments and/or objections to the report of the Secretariat. The civil society representatives may prepare and briefly present alternative reports to the reports of the Secretariat.

After the presentation of the Secretariat’s reports, of implementing institutions’ objections and amendments and of alternative reports of the civil society, the head of the monitoring group shall allocate time for discussion, comments and debates among the group members, allowing other persons invited as observers and other present persons to the meeting to speak up too.

The meetings of the Monitoring Groups are concluded with the adoption of decisions on the part of the Group members, at the initiative of the President or proposed by any member of the Group, for the improvement of the performance in the Strategy implementation. The decisions of the Monitoring

Group are adopted by the consensus of majority Monitoring Group members, while the Monitoring Group members who hold a different opinion are given the chance to express it. The Monitoring Group meetings are deliberative under the condition of the participation of a member majority. In the case of decisions of general public interest (warning the responsible institutions which do not implement or delay the implementation of measures under the Strategy, other measures assigned to the pillar-institutions monitored by the respective Group) the President of the Monitoring Group makes a statement for the media representatives.

The **monitoring groups' Secretariat** (the Secretariat) shall be ensured by NAC, which will designate a specialized structure to that effect. The Secretariat's duties are:

- a) to keep record of the Monitoring Groups' members;
- b) to organize the Monitoring Groups' meetings;
- c) to draw up the minutes of the Monitoring Group's meetings and decisions;
- d) to collect, store and synthesize the information provided by the implementing institutions;
- e) to prepare the monitoring groups' biannual and annual reports on the implementation of the actions planned for each strategy pillar;
- f) to develop draft annual reports on the Strategy implementation;
- g) other complementary tasks to those listed.

The public entities shall submit to the Secretariat, in writing and via e-mail, the information necessary for monitoring and assessing the progress of implementation of the planned actions for which they are responsible, within the deadlines set in the action plans. During the first year of strategy implementation, the Secretariat shall develop an electronic platform for progress reporting, to which all the public entities/responsible institutions will be connected. The Government shall facilitate the granting of additional electronic signatures, if necessary, both to institutions that hold them and to institutions that do not.

The strategy implementation monitoring and assessment reports shall be prepared by the Secretariat at least 2 weeks before the monitoring groups' meetings, at which they will be publicly heard. The reports shall contain:

- the executive summary of the main findings of the report;
- the description of progress of the institutions responsible for performing the due actions and for achieving the progress indicators – according to the pillars covered by the report;
- the assessment of the quantitative progress, in order to achieve the expected results and the outcome indicators of priorities – according to the pillars covered by the report;
- the description of the risks in the activities of the responsible institutions, that can lead to delays in implementing the actions that have not matured;
- conclusions and recommendations.

The annual reports and the final one will also contain:

- the impact indicators, the indicators of the general objectives and of the strategy goal, according to the strategy impact monitoring survey;
- the strategy impact indicators, according to alternative sources (other surveys conducted by NGOs, national and international organizations).

The alternative sources reflecting the strategy impact indicators and their baseline value at the beginning of its implementation shall be those included in the Strategy Impact Monitoring Grid, adopted by Parliament.

The final assessment report on strategy implementation shall be prepared by the Secretariat and filled in by an independent external evaluator, who will assess the findings, starting with the alternative reports of the civil society, other relevant national and international evaluations and assessments. The independent external evaluator shall be selected on the basis of a public competition announced by

Parliament. The final assessment report on strategy implementation shall be heard in the Parliament plenary.

All strategy implementation monitoring and assessment reports shall be published on the NAC website. On their websites, the pillar institutions shall publish the strategy implementation monitoring and assessment reports or only those that relate to their activity.

The civil society representatives, who are members of the monitoring group, may prepare alternative reports to the strategy implementation monitoring and assessment reports on the basis of their own monitoring or monitoring performed by other NGOs, which they can present at the monitoring group's meeting hearing the progress achieved during the respective reporting period. The alternative reports shall also be published on the NAC website, together with the Secretariat's reports.

The strategy impact monitoring survey is conducted by the Secretariat when the implementation of the strategy starts, in order to mark the baseline values of the Strategy pillars impact indicators, of the indicators of the general objectives and of the strategy goal, and later on, the survey is conducted annually. The findings of each survey are provided in the strategy implementation monitoring and assessment reports and in the final assessment report. For an accurate monitoring of the dynamics of these indicators, the methodology for conducting the survey (the questions, the sample and the target groups by means of which the impact indicators, the general objectives and the Strategy goal are to be achieved) will be determined following a public contest and will be kept unchanged during the entire period of the strategy implementation.

The appointment of representatives of the civil society (CSOs) in the monitoring groups shall be done by the NGO Council and the Anti-corruption Alliance, according to the following criteria:

- competence in the field of activity of the pillar institutions monitored by the monitoring group;
- lack of personal interests in relation to the pillar institutions monitored by the respective monitoring group;
- transparency of funding and activities carried out by the non-governmental organization to which it belongs;
- availability to participate in the monitoring groups' meetings.

The Secretariat shall be informed about the appointed civil society representatives as members of the 3 monitoring groups within 3 months since the strategy entered into force. If, after this period lapses out, the Secretariat is not informed about the appointed members, it has the right to directly invite the non-governmental organizations that meet the mentioned criteria to designate members to the monitoring groups.

The civil society representatives appointed as members of the 3 monitoring groups, may be revoked by the NGO Council and the Anti-corruption Alliance or, where appropriate, by the Secretariat at the request of other members of the monitoring groups to which they belong, if they cease to meet the criteria based on which they were appointed.

The information about the appointed civil society representatives shall be made public by the Secretariat on the NAC website.

The appointment of representatives of extra-parliamentary political parties within the Monitoring Group 1 shall be made by the first five extra-parliamentary political parties which registered the best election result during the last general parliamentary elections, at the invitation addressed by the Secretariat. If the representatives of the extra-parliamentary political parties are removed from the registry of political parties after the appointment of their representatives within the

Group, or they refuse the proposal to be represented in the meetings, the Secretariat will invite the political parties that follow with the best electoral result, according to official data of CEC.

If the appointed representatives of extra-parliamentary political parties in the composition of the Monitoring Group 1 become parliamentary parties, they can no longer attend meetings of the Group as members representing extra-parliamentary parties. After the general parliamentary elections, the Secretariat will use the above procedure for the appointment of representatives of extra-parliamentary political parties as members of the Monitoring Group 1.

The information about the appointed representatives of extra-parliamentary political parties as members of the Monitoring Group 1 shall be published by the Secretariat on the NAC website.