MEASURES FOR CORRUPTION PREVENTION AND ASSET RECOVERY IN THE REPUBLIC OF MOLDOVA

ALTERNATIVE REPORT ON THE IMPLEMENTATION OF CHAPTERS II AND V OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

Freedom House

CAPC

CONTENT

ABBREVIATIONS

PPA	Public Procurement Agency
NIC	National Integrity Authority
CPA	Central public administration
LPA	Local public administration
ARCA	Agency for the Recovery of Criminal Assets
UNCAC	United Nations Convention Against Corruption
NAC	National Anti-Corruption Center
CAPC	”Centre for the Analysis and Prevention of Corruption” NGO
CEC	Central Electoral Commission
NIAS	National Integrity and Anti-Corruption Strategy
SJSR	Strategy for Justice Sector Reform
SPCML	Service for Prevention and Combating of Money Laundering

PRELIMINARIES

The Republic of Moldova has ratified the United Nations Convention Against Corruption (*hereinafter* – UNCAC) by virtue of Law No. 158 of 2007, reaffirming thus its adhesion to the international principles, values and rules for preventing and combating corruption, along with its commitment to transpose the universal anti-corruption standards into the national legislation and legal practices.

The fulfilment of the commitments taken by UNCAC signatory countries is tracked through a Review Mechanism[1]. Under this Mechanism, it has been established that each phase of review of UNCAC implementation shall consist of two review cycles of five years each. The Republic of Moldova underwent the first review cycle which ended in 2016 and whose object was the implementation of Chapters ***III "Criminalization and Law Enforcement"*** and ***IV "International Cooperation"*** of UNCAC. The international evaluators[2] concluded that the Republic of Moldova had made progress in terms of transposing UNCAC provisions into the national legislation and practices, and formulated a series of recommendations for the improvement of the legal and institutional framework.

In 2016, the second cycle of UNCAC implementation review was launched in the Republic of Moldova, focusing on the enforcement of ***Chapter II "Preventive Measures"*** and ***Chapter V "Asset Recovery"*** of the Convention.

The Convention's provisions, along with the UNCAC Mechanism for reviewing its implementation, encourage the participation of civil society in the process of reviewing the degree of transposition of the Convention's provisions at the national level. During the first review cycle and with the launch of the second cycle, the representatives of the National Anti-Corruption Center (the national reporting authority) requested support, recommendations and comments on the Self-Assessment Report from civil society. In order to ensure a complex connotation and approach to this exercise, not confined to the comments and annotations of the public authorities' Self-Assessment Report, the authors of this document deemed it appropriate to draw up an alternative report with civil society, and thus more comprehensively tackle the implementation of the two chapters of the Convention.

This alternative report focuses on the **17 articles of UNCAC** integrated into **Chapters II and V** that are related to corruption prevention measures and asset recovery. The report consists of ten chapters centered on: the review methodology, an article-by-article analysis of the degree of transposition of the Convention's provisions, the conclusions and the recommendations of the alternative review.

The key issues covered by the 17 articles of UNCAC subjected to the review in this Report are related to:

- Preventive anti-corruption policies and practices (Articles 5 and 6);
- Measures to prevent corruption in public sector and codes of conduct (Articles 7 and 8);
- Public procurement and management of public finances (Article 9);
- Transparency and public reporting, participation of society (Articles 10 and 13);
- Preventive measures related to the judiciary and prosecution services (Article 11);
- Corruption prevention in private sector (Article 12);
- Measures to prevent money laundering (Article 14);
- Asset recovery (Articles 51-58).

This report will be submitted to public authorities responsible for the management and monitoring of the areas regulated by the respective articles of the Convention, to the UNCAC Secretariat, and to all civil society stakeholders and mass-media.

I. METHODOLOGICAL BENCHMARKS

The conduct of an alternative process of review of UNCAC implementation implied the need to develop a set of methodological benchmarks to detail the method and the means used for assessing the degree of transposition of the Convention's provisions. A number of methodological benchmarks have been taken up from the Transparency International Guidelines[3] for civil society organizations interested in getting involved in the process of alternative review of UNCAC transposition.

In order to ensure the interactivity and the accessibility of the Report, the review was carried out based on a template (tabular assessment of each UNCAC article), covering a set of issues and questions bought up by the authors of this Alternative Report.

The review covered the following main issues:

A. Regulation / adoption / enforcement of UNCAC provisions;

B. The findings of the authorities' Self-Assessment Report (NAC);

C. The findings of the authors of this Alternative Report (CAPC)

D. The recommendations of the authors of the Alternative Report (CAPC).

A. In order to assess **the regulation, adoption and enforcement of the UNCAC norms** in the Republic of Moldova, the authors of the Alternative Report determined whether the respective provisions have been adopted at the legislative and enforcement level. For both fields, the experts gave an assessment, as follows:

	Status of implementation	Explanations
Legislative level	Fully	This assessment was given, if the UNCAC norms have been completely and fully adopted by the national legislation and no drawbacks or inconsistencies were identified.
	Partially	A norm was considered as partly transposed at the legislative level, if it does not contain all the elements provided by the UNCAC correspondent article, or if it contains minor inconsistencies and drawbacks.
	Not implemented	This assessment was given if the UNCAC norm has no corresponding norm in the national law or if certain national norms exist, but they are superfluous and contain fundamental drawbacks.
Practical enforcement	Good	This assessment was given if the UNCAC norm is coherently and consistently applied by the authorities, and there are no challenges and obstacles to its practical application.
	Moderate	A UNCAC norm was considered as moderately enforced if it is stipulated by national legislation and there are authorities responsible for its implementation, but its enforcement is inconsistent and declarative, as evidenced by relevant statistics and research.
	Poor	The norm was considered as poorly enforced if, despite being covered by the national regulatory framework, it does not yet have practical application and there are no relevant actions, institutions, data and statistics to prove its effective implementation.

In order to substantiate each assessment, the authors of the Alternative Review Report have inserted the appropriate comments in a distinct section of the review table. Indicators, data and information used to support the argumentation were derived from:

- analysis of the national norms;
- reports submitted by public authorities;
- information requested to the authorities;
- case studies;
- national and international research and surveys, etc.

B. The section **"Findings of the Self-Assessment Report of the Authorities (NAC)"** is relevant for comparing the assessment given by the authorities with that given by the authors of this Alternative Report. The authors of the report analyzed the NAC's Self-Assessment Report[4] and confirmed / adopted its main findings.

C. The section **"Findings of the Alternative Report's Authors"** describes the CAPC view on the implementation of the UNCAC norm subjected to the review, including a comparison with the findings of the Self-Assessment Report. At the same time, the successful practices and/or failures in the implementation of the national norms corresponding to the UNCAC norms were highlighted, where appropriate.

D. The **recommendations** of the authors of the Alternative Report are derived from the problematic issues related to the norms under review and to their practical enforcement. They are mainly focused on the actions to be undertaken in order to enhance the quality and the efficiency of national norms and practices.

Each UNCAC article was reviewed according to the table shown below:

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level[5]	Practical enforcement	Rationale/Comments
X Yes	**X** Fully	**X** Good	
X No	**X** Partially	**X** Moderate	
	X Not implemented	**X** Poor	

Findings of the Self-Assessment Report (NAC)	
Findings of CAPC	
Recommendations	

II. EXECUTIVE SUMMARY

This Alternative Report presents the view of civil society on the transposition of UNCAC norms onto the national legislation and practices of the Republic of Moldova. The report does not reiterate the findings of the self-assessment conducted by the authorities (NAC) that generally invoked the provisions of the current legislation; instead, it tackles issues identified by the authors during the parallel review process. The review was not confined to a side-by-side analysis of national norms and corresponding UNCAC norms; rather, it primarily focuses on the practical issues related to their implementation.

The review indicated that most of the UNCAC norms were adopted by the national legislation of the Republic of Moldova, with a few exceptions. At the same time, their practical application is far from satisfactory, as evidenced by studies, research, surveys, case studies and public reports in this field, synthesized and presented in this Report

Preventive Anti-Corruption Policies and Practices (Articles 5 and 6). Both articles have been adopted and transposed at the national level: policies, laws and institutions are in place. However, the anti-corruption instruments and policies adopted by the Republic of Moldova are not appropriately applied; some tools seem to overlap, or they are in excess. A number of anti-corruption policies (regarding conflict of interest, pantouflage/ revolving door, and whistle-blowing) are not understood (and, consequently, are not applied) by the public stakeholders; there is no systemic or regular assessment of the adopted instruments and practices that would allow for their correction and adjustment for the sake of efficiency. The corruption prevention authorities have constantly been under the eye of politicians who have not always displayed diligence in respecting the independence of those institutions and/or in providing them with all the necessary levers to effectively carry out their duties.

Measures to prevent corruption in the public sector and codes of conduct (Articles 7 and 8). Both UNCAC articles have been adopted in the national law: there are codes of conduct for public officials, the merit-based eligibility conditions are regulated, continuous training programs are provided, the rules for financing political parties are established, etc. At the same time, analysis of a number of case studies and also, implicitly, the solutions adopted by the authorities, indicate the lack of a firm will and/or of effective actions in support of their implementation.

Public procurement and management of public finances (Article 9). The legal framework in the field of public procurements has significantly advanced in the Republic of Moldova. However, the proper management of the public procurement process and the management of public finances remains a challenge for the Moldovan authorities. Although the regulatory framework has been upgraded and aligned to the best standards in this field, there are still some drawbacks, as well as patchy and even abusive practices in the management of both sectors.

Transparency and public reporting, participation of the society (Articles 10 and 13). The national regulatory framework in this field has been set up and applied in the Republic of Moldova for many years. There are no major regulatory drawbacks, with some exceptions related to the dedication and responsibility of the authorities in terms of unrestricted/full access to information of public interest. The practical application of the norms reveals that these drawbacks influence the respective processes and the regressions that occurred over the past years reconfirm this fact. All principles of transparency and access to public information have been neglected while promoting major draft decisions, with a strong impact on corruption prevention and on society as a whole. In certain cases, under the cloak of "personal data protection," access to information of public interest was systematically restricted (depersonalization of court decisions).

Preventive measures relating to the judiciary and prosecution services (Article 11). National legislation provides for a wide range of preventive measures to ensure integrity of the judiciary and prosecution authorities. Nevertheless, opinion polls and statistics indicate such integrity is not fully ensured. Involvement of judges in

reprehensible activities including criminal suits for corruption offenses and participation in money laundering schemes demonstrates that application of preventive instruments was ineffective. Mechanisms to respond to ethical breaches committed by judges and prosecutors, as well as to heighten awareness of ethical rules, are still ignored or not applied.

Corruption prevention in the private sector (Article 12). The private sector and its role in preventing corruption came more prominently into the view of the authorities after the approval of the NIAS and the Law on Integrity. The existing regulatory framework, aimed at ensuring integrity of the private sector, does not cover all areas. Codes of ethics, advocacy for good commercial practices, conflict of interest, whistleblowing, pantouflage/ revolving door, etc. are just a few examples of instruments that have not been fully adopted or implemented by the private sector, and necessary partnerships with the public sector have not yet been established. At the same time, the latest laws promoted by the government aim (at the declarative level) at deregulation and tax incentives for business entities. In fact, it seems that such initiatives encourage or give tacit agreement by the authorities to unfair practices in the private sector, exoneratting this sector's representatives from the obligation to adopt and/ or implement the anti-corruption measures imposed by UNCAC.

Preventing money laundering (Article 14). The regulatory framework was modernized and brought into line with the most recent European instruments in this field, and a range of documents relating to the new Law on Money Laundering were adopted. However, the previous regulatory framework (which was not worse) did not hamper the occurrence of serious incidences of money laundering in the financial-banking system. There was no comprehensive rationale for the transfer of the SPCML from the NAC subordination under the subordination of the Government; this transfer was not subjected to public debates, nor does it provide sufficient guarantees that incidents of a similar magnitude will not occur again. There is a risk that the new laws, promoted in particular in 2018 (voluntary declaration and tax incentives, decriminalization of the legislation on the activity of business entities, citizenship by investments, etc.), will substantially diminish the effectiveness of money laundering prevention measures, stipulated by Art. 14 of UNCAC and transposed into the national legislation.

Asset recovery (Articles 51-58). Important developments took place in this sector in 2017, including the adoption of the ARCA Law and of the Law on the Prevention and Combating of Money Laundering. The establishment of such regulations was dictated, among other reasons, by the need to set up a reaction and investigation mechanism following the negative incidents in the financial and banking sector of the Republic of Moldova, as well as by the need to develop the required institutional infrastructure to facilitate interaction at the national, regional and international level for asset recovery. But these good regulatory intentions are also likely to be affected by the above-mentioned draft laws adopted by the Republic of Moldova in 2018. Given that that the implementation of the new regulations started at the beginning of this year, there is a lack of sufficient information or open data to conduct a proper analysis of this topic.

An important conclusion of this review exercise is that the legislation, although perfectly aligned with the UNCAC provisions and with other relevant international standards, cannot be the guarantor of effective corruption prevention. Its practical implications are much more important: the norms need to be well-known and effectively and diligently applied, authorities should have the will to discourage unethical behaviour, and the general public should support and implement a comprehensive anti-corruption toolkit.

The recommendations formulated in the final part of this Report respond to identified problems and are intended to contribute to streamlining the norms and practices applied in the Republic of Moldova which derive from and are linked to the norms of UNCAC Chapter II and Chapter V.

III. PREVENTIVE ANTI-CORRUPTION POLICIES AND PRACTICES (ART. 5, 6)

ARTICLE 5

Preventive anti-corruption policies and practices

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of the society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.
2. Each State Party shall endeavor to establish and promote effective practices aimed at the prevention of corruption.
3. Each State Party shall endeavor to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.
4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

ARTICLE 6

Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

    a) implementing the policies referred to in Article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

    b) increasing and disseminating knowledge about the prevention of corruption.

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this Article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.
3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Moderate**	Both articles ***were adopted and transposed into the national legislation***. The assessment shows that, from the perspective of the declared/assumed policies, of the adopted legislation and preventive authorities that were established, the Republic of Moldova is in line with the UNCAC provisions. However, the practical application of these norms is marked by drawbacks, including by declarative and inconsistent actions.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova fully complies with the UNCAC norms set out in Art. 5 and Art. 6. Reference was made to the provisions and principles of policy documents and of adopted legislation, along with reports, studies and surveys developed in this field. However, the Self-Assessment Report only makes reference to these documents, without highlighting their findings or the practical implications of the adopted norms.

CAPC Findings

The field of corruption prevention is regulated with sufficient detail at the level of **national policies and legislation (Art. 5)**. National anticorruption plans and strategies have consistently been in force since 2001[6], and the goals of ensuring a climate of integrity and combating corruption have been constant components of all governance programs during the period under consideration[7]. Civil society took part in drafting anti-corruption policy documents, particularly the latest National Integrity and Anti-Corruption Strategy (NIAS) developed in 2017. However, although the NIAS approach emphasized civil society participation and transparency in decision-making and accountability, disagreements arose between the authorities and civil society at the stage of strategy promotion. Disagreement arose regarding the authorities' plans to address civil society issues, including a set of priority actions intended to resolve these issues as set forth in the strategy[8].

It should be noted that anti-corruption policies and instruments have been comprehensively systematized in the new Law on Integrity no. 82 of 25.05.2017, which regulates political, public and private domains and is based on the set of principles enshrined in par. (1), Art. 5 of UNCAC. With regard to the promotion of effective practices for corruption prevention, we would like to note a recent survey[9] that indicates many of the anti-corruption practices are not known or understood by the very public officials who are primarily responsible for applying and upholding them in their daily work.

The UNCAC requirement for a **periodic review of legal instruments and administrative policies** does not appear to be fully met by public authorities. The analysis shows that no periodic evaluation of anti-corruption instruments is conducted in a systemic or well-planned manner at the level of public authorities. The evaluations are sporadic and only address a part of corruption prevention policies, as they primarily target general issues and are integrated into the authorities' activity reports[10]. The public authorities have issued very few studies or research publications that focus strictly on the evaluation of certain anti-corruption tools and practices, including their benefits and drawbacks. This is particularly true concerning the assessment of the conduct of an anti-corruption review of regulatory acts, asset confiscation and recovery, as well as the public procurement system[11]. At the same time, although a mechanism for the declaration of assets and interests has existed in the Republic

of Moldova for more than ten years and has undergone at least two substantive revisions, the authorities did not conduct a multidimensional assessment of this sector that would highlight the need for a restructuring. The restructuring was informed only by fragmented assessments / reviews conducted by the authorities; this was reflected in the notes annexed to draft laws. On the other hand, civil society appears to be more interested and involved in exercises that assess the national anti-corruption policies and instruments[12]. The civil society assessments[13] on anti-corruption policies conducted in 2012 among the central public authorities pointed out that *"[...] the authorities have a satisfactory legal and institutional framework for corruption prevention. However, the CPA undertook a selective implementation of the relevant regulatory acts, which has diminished the impact of anti-corruption policies. At the same time, we note that central public authorities address corruption prevention issues for the sake of appearances; this fact is indicated by the concerns regarding the temporary nature of managerial positions in the relevant bodies, as well as in the absence of a response from the governors to the corruption prevention efforts made by the authorities. This discourages the authorities, fueling the conviction that governors are not interested in implementing anti-corruption policies within the CPA. The above-mentioned drawbacks, along with a lack of accountability from effective sanctions for non-implementation of anti-corruption policies, generated a situation in which the results of the implementation of anti-corruption policies, although impressive in terms of number, are not visible and are far from being felt by the general public"*. These same conclusions appear to remain valid in the current day, five years following the publication of the assessments. One of the most recent CAPC studies on the application of anti-corruption policies and tools in the judicial sector revealed that three out of the nine anti-corruption instruments / policies meant for the judiciary are not applied in practice. It also pointed out that *"there is a wide and diverse spectrum of instruments designed and promoted to ensure corruption prevention in the judiciary, as well as in public sector, as a whole. However, in-depth analysis of this toolkit highlighted that the regulatory framework is affected by deficiencies in terms of quality, clarity, coherence and predictability of the norms. Under such conditions, the quality of these norms undoubtedly has an impact on the degree of application of the proposed instruments [...]. In addition, the number of instruments sometimes appears to be excessive, or, by their essence and purpose, they duplicate / overlap. This affects their effective implementation, as well as their accessibility and understanding for those persons for whom the instruments are intended. [...] a less numerous, but robust and reliable anti-corruption toolkit, including steady guarantees of accountability and avoidance of impunity, could produce much more spectacular results than those identified as a result of this assessment"*.

Corruption prevention bodies (Art. 6). The national institutional framework consists of a wide range of public authorities whose aim is to ensure a climate of integrity, and to promote and implement effective anti-corruption measures. In principle, all national public authorities - both central and local - are compelled, under the Integrity Law, to observe and apply integrity measures in their work. However, two institutions play the central role in promotion and enforcement of preventive anti-corruption measures: NIA and NAC. One of the basic requirements set by UNCAC for anti-corruption organizations is that they have the *necessary independence [...], material resources and specialized staff, as well as the training that such staff may require to carry out their functions*. From the perspective of legislation, this requirement appears to be currently respected. However, the history of the establishment, operation and restructuring of these institutions demonstrates that there is still insufficient political determination and will to ensure the required conditions and the appropriate infrastructure for their operation "*free from any undue influence*", as provided by UNCAC. Over the years, the NAC has undergone a cascade restructuring, being either subordinated to the Government, or acting as an independent authority under parliamentary control. The latest reform of the NAC, resulting in its transfer from the authority of the Government under parliamentary control, took place in autumn of 2015.[14] This restructuring took place without public consultations and neglected the requirement for transparency in the decision-making process. At the same time, the structure of the NAC was subjected to changes: the Money Laundering Service was transferred to the Government's jurisdiction, and the Agency for the Recovery of Criminal Assets (ARCA) was set up within the NAC. The latter generated some inconsistencies and dissensions. Shortly after the approval of the ARCA Law (providing for the establishment of the Agency as a NAC entity) and before the enforcement of this provision,

a new initiative was launched concerning the re-subordination of the Agency to the Ministry of Finance and the enlargement of its competencies. Ultimately, the ARCA was not re-subordinated; it was granted more extensive competences, although without providing it with the necessary human, logistical and financial resources. All these re-conceptualizations and reforms were undertaken on the spot, without relevant analyses and arguments, and without the allocation of the required resources, which considerably affected the efficiency and effectiveness of NAC's work. The reform of the NIA was a hard process. Although the new laws related to this authority were adopted in 2016, their actual enforcement could only start in 2018. As with the NAC, the laws were adopted, but no appropriate infrastructure for exercising the new competencies was set up, no financial resources were allocated, and the selection of the corps of integrity inspectors remains a challenge for the Moldovan authorities. In this context, we note that, at the practical level, the UNCAC requirements for the effective fulfilment of the functions of the NAC and NIA are not strictly observed.

Recommendations

- Strengthen the partnerships between public authorities, civil society and the general public in the process of drafting and consulting the policy documents and the regulatory acts in the field of corruption prevention;
- Ensure an effective process of promoting, awareness, understanding and effective implementation of anti-corruption practices by the public officials;
- Establish systemic practices for periodic review of anti-corruption policies and practices at least every five years, in order to assess their effectiveness, correctness and correlation with existing realities;
- Prevent political interference in the activities of anti-corruption bodies; provide the required guarantees to ensure their independence in terms of logistics, finances and human resources consistent with their purpose and the assigned tasks.

IV. CORRUPTION PREVENTION IN THE PUBLIC SECTOR, CODES OF CONDUCT (ARTICLES 7, 8)

ARTICLE 7

Public sector

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavor to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:
    a) that are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
    b) that include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
    c) that promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
    d) that promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent to the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.
2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.
3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.
4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavor to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Moderate**	The article has been ***adopted and transposed into the national legislation***. The assessment shows that, in terms of declared/ assumed policies and adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but less so in terms of practical application of these norms, which is marked by drawbacks, including by declarative and inconsistent actions.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova fully complies with the UNCAC norms set out in Art. 7. Reference was made to the provisions and principles of policy documents and of the adopted legislation, as well as the reports, studies and surveys developed in this area. The Self-Assessment Report only makes reference to these documents, without highlighting their findings or the practical implications of the adopted norms.

CAPC Findings

The holding of a public office is regulated by Law no.158 / 2008 on public office and the status of the civil servant. The procedures for recruitment for public dignity positions, public positions with a special status and positions within the cabinet of a person exercising a public dignity office are carried out based on the provisions of special laws. The recruitment in other positions within public authorities is done based on the Labor Code.

Over the past few years, the Government underwent a restructuring and the number of ministries and public authorities was optimized. At the same time, contests for the positions of General State Secretaries, State Secretaries and for the recruitment of the ministerial staff were held. Although the announcements about the contests were published on the website of the State Chancellery and on www.cariere.gov.md website, information on the contest results, the ranking of the participants (including the evaluation by the committee) was not posted on the website, and it was only possible to view the list of the candidates retained after the initial CV review stage, once candidates for senior civil service positions had already been admitted to the interview stage. Neither the minutes of the process CV selection, nor the results of the interviews were accessible to the public; the only documents published were the government decrees on the nomination of the winning candidates and, in most of those cases, former deputy ministers were appointed to the respective positions.

The monitoring of the **training process** shows that the number of civil servants that took part in training activities increased in 2016 compared to 2015, but only 25.9 percent of the total number of civil servants complied with the requirement of the Law on public office and the status of the civil servant, whereby they must have a minimum of 40 hours of training throughout the year 2015 (33.8 percent - in CPA and 12.7 percent - in LPA)[15].

In 2017, both **the legislation on the political parties and electoral legislation** remained deficient. Concerns and requirements similar to those stated in the Venice Commission opinion of December 7, 2017[16] were identified[17]. The respective deficiencies are related to: the ban on donations from Moldovan citizens working abroad; the high number of donations to political parties from individuals and legal entities which reach the yearly contribution max; the absence of supervision or enforcement of the rules on funding political parties; and the ineffectiveness of sanctions for violation of party financing rules, including the low level fines for contravention.

Contrary to the Venice Commission-OSCE joint opinion, which highlighted the vulnerability of the majority candidates to narrow group interests, current provisions on the ceiling of donations (although the respective ceiling was diminished) still allow majority candidates to collect substantial resources from a small circle of people, which facilitates cartel arrangements and strongly favors the candidates who have access to resources.

Transparency in the funding of political parties remains an unresolved issue, and results primarily from the restriction of public access to donor identity data. The conflict between the public interest of knowing who finances political parties and personal data protection has been resolved in favor of parties; denial of access to sponsors' identity reduces the level of transparency and hinders the general public from checking the authenticity of the origin of financial resources[18]. The recommendation of the Venice Commission and of the OSCE / ODIHR[19] to review the current sanctions for rule violations regarding party and campaign financing to guarantee that these sanctions are dissuasive and effective (including by increasing the amount of administrative fines), indicates that, although the range of sanctions has been extended, they are not flexible or proportionate enough to discourage contraventions or financial offences. The adjustment in sanctions has resulted in an increase in the number of punishments imposed on individuals and managerial staff. As for the collective accountability of the electoral competitors, the range of sanctions remains relatively limited and rigid.

Although a legal framework was in place, it was not of high enough quality to ensure the effective and efficient implementation of anti-corruption instruments. The limited effectiveness of the **instrument related to conflicts of interest** was not only due to the drawbacks in the legal framework, as some of these were eliminated in the new regulations adopted by Law 66/2018. Ineffectiveness was also due to the erroneous and uneven interpretation of existing legal norms. The case of the judge XXX serves as an example in this context[20]. The ex-President of Râşcani District Court in Chişinău (now Chişinău Court) promoted his relatives who were employees of this court. In 2014, his wife's sister was employed part-time as a registrar, but the judge soon issued an order on her full-time employment. His nephew was hired part-time as an administrator of the court's computer network. Although he signed a number of administrative acts that generated a conflict of interest, NIC (the current NIA) dismissed the case[21] despite the fact that the violation of the legal provisions concerning the conflict of interest was clearly established. This case also reveals the lack of expediency in the work of the NIA, as the case of judge XXX was in proceedings for almost three months (from November 7, 2014 to January 22, 2015). Following the adoption of the NIA documents that established the violation of conflict of interest laws, in 2016 the courts were notified of 11 cases (aiming to annul the administrative acts issued / adopted for the legal acts concluded or the decisions made in situations of conflict of interest); in 2017, the court of first instance issued three judgments on the violation of conflict of interest laws (in favor of NIA findings), while the Court of Appeals and the Supreme Court of Justice issued six judgments (five - in favor and one – against the NIA findings). In the first quarter of 2018, the court of first instance issued one judgment partly annulling the NIC act of finding and another judgement on the restitution of the appeal for the maintenance of the act of finding the violation of conflict of interest laws[22]. Despite these efforts to carry out controls, their outcomes are more than modest.

Recommendations

- Enhance transparency by ensuring public access to all information related to the selection and employment in senior managerial public positions;
- Promote the implementation of the concepts of ethics and integrity of civil servants and managers of public authorities by including special modules in training programs;
- Revise the max ceiling of donations from individuals and legal entities to electoral candidates who will run in uninominal constituencies, and further reduce the yearly ceiling of private donations to political parties and electoral competitors;

- Ensure the transparency of donor identity data by publishing information that would ensure a minimum level of transparency, while still protecting other categories of personal data, such as personal ID or domicile-related data;
- Toughen the sanctions for violation of the rules for financing political parties and election campaigns and increase the amount of administrative fines, including by depriving political parties of public funds;
- Strengthen the endeavors of civil society (specialized public associations, investigative journalists) in the process of monitoring NIA activity;
- Initiate the control of property, personal interests, conflicts of interest, incompatibilities and restrictions in civil service as soon as possible.

ARTICLE 8

Codes of conduct for public officials

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.
2. In particular, each State Party shall endeavor to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly Resolution 51/59 of 12 December 1996.
4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.
5. Each State Party shall endeavor, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.
6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Partially**	**Moderate**	The article has ***been adopted and transposed into the national legislation***. The assessment shows that, at the level of declared / assumed policies and adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but less so in terms of practical application of these norms, which is marked by drawbacks, including by declarative and inconsistent actions.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova fully complies with the UNCAC norms set out in Art. 8. Reference was made to the provisions of the adopted legislation, as well as certain reports developed in this area. The Self-Assessment Report only makes reference to those documents, without highlighting their findings.

CAPC Findings

The establishment of **standards of conduct in civil service**, a component of the public administration reform, is aimed at creating an accountable, efficient, honest and professional corps of civil servants. The Code of Conduct for Civil Servants, adopted by Law 25/2008, has not achieved its purpose – to contribute to preventing and eliminating corruption in public administration. The Code contains incomplete provisions, failing to appropriately regulate areas such as: measures required to ensure the security and confidentiality of job-related information, economical and effective use of goods, political neutrality, participation in decision-making processes, use of public power, the relationship between personnel of the public authority and citizens, and the statute on gifts and undue influences. Generalizing the above-mentioned, we determine that the rules of professional conduct according to the current legal framework are incomplete; some rules are unclear with ambiguous wording, which inevitably undermines their efficiency. The regulatory gaps and lack of clarify favor those civil servants with integrity issues and accepts their misconduct. In some cases, this has consequences for the image of the public authority, in others – it relieves them of liability[23].

Regulation of civil servant conduct at the legislative level did not generate a need to establish or nominate of a public authority in charge of coordinating, monitoring and controlling the implementation of professional conduct rules in civil service. The public administration of the Republic of Moldova needs a specialized body to develop a corps of professional, stable and honest civil servants; such a body should be tasked with: strengthening the civil service system; enhancing and modernizing the management of public positions; ensuring the professional development and training of civil servants; improving the legal framework; establishing and implementing effective law enforcement mechanisms; enhancing the image of the corps of civil servants; managing disciplinary records, etc.[24] Modest results have been achieved in terms of approving the code of ethics and deontology. A number of entities have reported their compliance with Law no. 25 of 22.02.2008 on the Code of Conduct of the Civil Servant. At the local level, only 27 percent of authorities have published their codes on ethics and deontology[25].

At present, there is no **Code of Conduct for Members of Parliament**, although GRECO, in the IV review cycle for the Republic of Moldova[26], recommended the adoption of rules of conduct for Members of Parliament. A draft law in this field was filed in April 2016, but, at the session of May 13, 2016, voting was postponed and the draft law was sent to the specialized commission for re-examination. The draft law sets out rules of conduct for Members of Parliament in plenary sessions, meetings of standing, special and investigative committees, and other forums, for example - their conduct in international relations and in relation to the public. The document describes in detail the procedure for investigating, examining and sanctioning the deputies for failure to comply with the Code. The draft law provides for the establishment of the position of Ethics Commissioner with the task to monitor the deputies' compliance with the Code of Ethics. The draft Code also tackles the use of public resources by lawmakers, conflicts of interest, lobbying and the culture of parliamentary ethics. The Republic of Moldova must follow the recommendations and inform GRECO on completed activities by January 31, 2018.

In the Evaluation Report on Moldova (Review Cycle II), adopted by GRECO at its 30th Plenary Meeting (Strasbourg, October 9-13, 2006)[27], the GRECO evaluation team recommended that clear rules be set to favor reporting of corruption cases by any public official and to establish the appropriate protection of whistleblowers. The evaluators also recommended a review of the process for examining corruption cases in the public administration, in order to ensure the rapid implementation of appropriate procedures. The Law on the Integrity of Whistleblowers was adopted by the Parliament on July 12, 2018. It sets out the procedure for reporting and examining illegal practices in public and private entities, the rights of whistleblowers and the measures to protect them, the obligations of employers, and the powers of the examiners and of those in charge of safeguarding whistleblower protections. The reports and the complaints submitted by whistleblowers are not systematically followed, and the cases of persecution against civil servants who report corruption are not monitored[28]. Moreover, late in 2016, an investigative journalist was brought before prosecutors after the publication of a journalistic

investigation regarding the property of a former police commissioner. The dossier was dismissed only after it came to public attention. In addition, the European Court of Human Rights made public the judgment of the *Guja v. Moldova* dossier (No. 2), claim no. 1085/10, establishing unanimously that Article 10 (the right to freedom of expression) of the European Convention on Human Rights had been violated. The plaintiff alleged further violation of his right to freedom of expression after the whistleblowing incident, despite the judgement of the Grand Chamber in his favor in *Guja v. Moldova*. The plaintiff complained that the authorities only pretended to execute the judgement to reinstate him to office, as they dismissed him again. The Court found that, despite seeming to have executed its earlier judgment, the Moldovan Government had never truly intended to reinstate the claimant. In fact, the second dismissal was a punitive measure in response to his whistle-blowing in 2003[29].

The system of declaration of assets and interests in the Republic of Moldova was subjected to restructuring as a result of the adoption in summer 2016 of laws no. 132/2016, 133/2016 and 134/2016 which regulate such aspects as: the exclusion of the NIC collegial format and its transformation into a permanent authority, establishment of the position of integrity inspectors granted with guarantees of independence and wide competencies in initiating controls and finding contraventions, breach of law, compilation of the process of declaration of assets with the declaration of personal interests by the means of a single declaration form, establishment of a new declaration procedure (the electronic format), setting up a civil confiscation procedure, etc. However, it seems that the reform has not reached its goal of preventing and combating corruption and cases of unjust enrichment in the public sector. It is obvious that the delay of the reorganization process jeopardizes the control of personal assets and interests and might lead to the expiration of certain limitation periods - in particular, the limitation period for contraventional liability[30]. The first four integrity inspectors out of a total of 46 were finally selected and appointed in June 2018[31].

Although the legal framework in the field of public integrity had a lot of drawbacks and contained confusing and contradictory provisions that created bottlenecks in NIA activity of control of personal assets and interests, there is hope that Law no.66 of 24.05.2018 will eliminate the deficiencies and inconsistencies admitted in the process of promoting and adopting the integrity package, raise the effectiveness and the impact of the assets and interests declaration system, enhance integrity in the public sector, and increase the dissuasive effect of the sanctions for infringement of legal provisions on the declaration of assets and of conflicts of interest. However, it seems that such endeavors are minimized; contrary to the recommendations of the IMF and World Bank, by adopting the Law 180/2018 on voluntary declaration and tax incentives on July 24, 2018, the authorities launched a reform with unpredictable consequences for the national economy and for relations with external donors. At its essence, this document is a new attempt to provide amnesty for the capital obtained from dubious sources. The draft law was promoted speedily and without transparency, disregarding democratic processes and excluding the civil society. Providing amnesty for this capital is indisputably a counterproductive measure, encouraging the beneficiaries of corruption and crime and discouraging upstanding citizens and tax payers. In fact, the existence of such draft laws shows that the Government is unable to ensure the verification of the origin of goods and income, and renounces undertaking measures to ensure this process[32]. The development partners expressed their disappointment with the adoption of legislation that will diminish Moldova's capability to combat money laundering. The Law on Voluntary Declaration and Tax Incentives (also called the Law on Capital Amnesty) legitimizes theft and corruption and will harm the business climate in the Republic of Moldova. This law contravenes the commitments made by the Government of the Republic of Moldova, and this view is shared by the international development partners of Moldova[33].

Recommendations

- Modify the legal framework in order to eliminate the regulatory drawbacks and lack of clarity favoring civil servants with integrity problems;
- Set up a National Agency of Civil Servants in the Republic of Moldova, which will be tasked with activities including the establishment and implementation of mechanisms for the effective application of professional conduct standards in the civil service;
- Adopt a Code of Ethics and Conduct for Members of Parliament and establish an appropriate mechanism, within the Parliament, for promoting the Code, raising deputies' awareness of the standards set for them, and implementating the standards;
- Ensure the enforcement of legal norms that would encourage whistle-blowing for illegal practices and other issues of public interest;
- Ensure a democratic process, decision-making transparency and broad public consultations with sufficient timeframes for reactions and opinions from the concerned individuals and organizations;
- Reassess all tax amnesty projects according to conditions of massive corruption and embezzlement of public funds.

V. PUBLIC PROCUREMENT AND MANAGEMENT OF PUBLIC FINANCES (ART.9)

ARTICLE 9

Public procurement and management of public finances

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:
    a) the public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;
    b) the establishment, in advance, of the conditions for participation, including the selection and award criteria and tendering rules, and their publication;
    c) the use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;
    d) an effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;
    e) where appropriate, measures to regulate matters regarding the personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.
2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:
    a) the procedures for the adoption of the national budget;
    b) timely reporting on revenue and expenditure;
    c) a system of accounting and auditing standards and related oversight;
    d) effective and efficient systems of risk management and internal control; and
    e) where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.
3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditures and revenue and to prevent the falsification of such documents.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Moderate**	The article ***has been adopted and transposed into the national legislation***. The assessment shows that, at the level of declared/ assumed policies and adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but less so in terms of practical enforcement of these norms, which is affected by drawbacks, including declarative and inconsistent actions.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova fully complies with the UNCAC norms set out in Art. 9. Reference was made to the respective provisions and certain policy and legislative documents adopted, along with the reports and studies developed in this area. The Self-Assessment Report only makes reference to these documents, without highlighting their findings, including the practical implications of the adopted norms.

CAPC Findings

A reform of the **public procurement system** is necessary in order to adjust the national system to the international standards and to align it with the acquis communautaire, following the commitments made by the Republic of Moldova with the ratification of the Association Agreement with the European Union. Generally speaking, the regulatory framework for public procurements is satisfactory and incorporates the fundamental EU principles governing the award of public procurement contracts. However, certain provisions are not fully compatible with the EU requirements and will need further modifications. Public procurements in the field of defense and utilities remain unregulated and the legal framework on concession and public-private partnerships requires revision and alignment with the relevant EU legislation[34]. As a result of the evaluations carried out in the public procurement system, a number of drawbacks and deficiencies have been identified. The main issues mentioned by the respondents for the Report on Corruption Risk Assessment in Public Procurement System in the Republic of Moldova[35] in relation to corruption in public procurements are: poor quality of tender documents coupled with the lack of information on the requirements; disclosure of bid information (the favored company was informed of the cost estimates of the contracting authority); disqualification without proper justification; selecting the lowest bids to the detriment of quality; fraudulent tender book (brand name or narrow specifications, tender documents developed by one of the bidders); compulsion by some competitors (request not to participate, because "the market share belongs to company X"); secret agreements/complicity (rotation of contracting authorities' preferred companies); abusive change of the order (the tender document included works that were not carried out after the award of the contract, and the winner knew this); repeated auction (cancellation of the auction, if no bribe (kickback) was paid and subsequent launch of a new auction in which a new company participates and wins the contract); bid opening was not public.

Each year, the **Court of Accounts publishes reports on cases of suspected fraud and conflict of interest**[36] identified as a result of its audit missions. If, following the audit procedures and the evaluation of evidence obtained from the entities, the auditors identify risk factors that could lead to manifestations of corruption in public entities, they report the suspected fraud cases and relate conflicts of interest to law enforcement bodies for investigation and legal action, according to their competences assigned by law. At the same time, the audit materials related to the nature of the conflict of interest are submitted to the National Integrity Authority. A lot

of information about malfunctions in public procurement processes was disseminated in the public space, including incidents such as: restraint of a person holding a public dignity position for attempting public auction fraud[37]; fraudulent auctions for the purchase and installation of renewable energy systems[38]; the purchase of new cars by public authorities from only two companies that won 29 auctions in just 33 days, with a total contract value of 27.2 million Lei[39]; and co-participation in dubious auctions for investment projects[40]. The latest audit conducted by the Court of Accounts at the Public Procurement Agency revealed the following deficiencies in the fulfillment of its tasks: public procurement information included by the PPA in the System for Internal Document Management was not complete and veridical in all cases, thus, there is room to improve and develop it; PPA did not set any deadlines for the return / rejection of contracts and reports, if documents contain irregularities, the time limit for registration and, conseuqently, delivery of goods (works and services) is delayed; in certain cases, the PPA exceeds the deadline set by the legal framework for the examination of objections filed by economic operators; the list of qualified economic operators and the list of prohibitions on economic operators were not comprehensive and, therefore, their usefulness was undercut; the PPA did not hold any information on the number of people involved in the public procurement process with the contracting authorities or, respectively, on their needs for training in order to ensure the efficiency of public procurements[41].

However, the public procurement field in the Republic of Moldova has significantly advanced over the past years. A new law on public procurement was adopted, along with a series of government decrees that laid the secondary regulatory framework, as well as the Strategy for the development of public procurement system for 2016-2020. New institutional elements were also created, including the National Agency for Settlement of Complaints. The electronic procurement system is expanding and developing as an effective tool for ensuring the transparency and efficiency in the field of public procurements. However, a number of issues remain unresolved[42]. The following most common irregularities have been identified: splitting the procurement into small lots in order to avoid the common procedure (many contracts with a value just under the threshold were awarded to the same contractor); unjustified procurements from a single source; irregularities in the process of qualification (uneven participation criteria or criteria unrelated to the object of the procurement); unreasonably short time limits; exclusion of companies for false reasons in order to favor a selected company; irregularities at the stage of bid evaluation (late acceptance of bids, modification of the submitted bids, rejection of the "unwanted" bids for unjustified reasons or for reasons that are not specified in the law or in tender documentation, application of criteria different from those defined in tender documentation); unjustified rejection of all bids in order to repeat the procedure and submit different requirements; non-compliance with transparency and information requirements; and unjustified increase of the price during the period of contract execution. The deficient implementation of public procurement legislation emphasizes the need for provision of appropriate support for training and capacity building"[43].

The Republic of Moldova continues reforms in the field of **management of public finances**, implemented with the support of development partners and international financial institutions. The reform endeavors are anchored in action plans for the implementation of national development strategies. There is a multitude of strategies dedicated to public sector reform and development that provide for legislative and regulatory reviews, along with action plans covering a set of critical issues which impact public finances. In terms of transparent and accountable management of public property, no quality, efficiency and integrity monitoring is conducted, and there is no transparency in the use of institutional resources. Only 13 percent of CPAs have published sufficient information on public property management, only about 21 percent of entities reported on the publication of information regarding the management of resources from external aid, and only 10 percent reported on the implementation of outcomes / objectives set out in external assistance projects.[44] The audit carried out by the Court of Accounts pointed out a number of instances of non-compliance, irregularities and deficiencies both in the management of public funds, including of public property, and in financial reporting. According to the Report on the Management and Use of Public Financial Resources and of Public Property[45] (the latest available to the general public), as in previous years, the identified deficiencies and non-compliances are mostly related to: incomplete income collection and arrears to the State budget, the State social insurance budget, and compulsory

health insurance funds; failure to use the funds allocated to public entities; making payments in the absence of supporting documents; redirection and inefficient use of financial resources; making investments in the absence of an economic substantiation; inconsistent and inefficient public procurements; deficient management of public funds, including of public property; uncontrolled management and disposal of immovable property; errors in accounting and financial reporting; failure of institution founders to register their ownership rights over their capital; improper use of financial resources, etc.

In terms of an **internal control system**[46], similar important deficiencies have been identified for many years and in the current reporting period: systems of self-assessment of financial management and control do not work, are superficial or are totally lacking in public entities; managers do not perceive, do not commit to or are not interested in the implementation and development of the financial management and control system; lack of communication both horizontally and vertically between the structural subdivisions of public entities; unclear delegation of responsibilities to the staff; absence and irrelevance of the criteria for the assessment of possible risks in financial and operational management, including of the objectives related to the activities of public entities; shortage / lack of qualified staff, including in the financial-accounting field and of internal auditors, etc.

A direct consequence of the above-mentioned deficiencies is the improper and inefficient use of public funds. This is confirmed by the frequency and number of deviations from the legal and regulatory norms detected by the Court of Account within the public entities subjected to the audit in terms of keeping accountability records, public procurements, property management, revenue prognosis and management, etc.

Public administration reform is a challenge for the internal control system, thus, the stakeholders involved in the conduct of internal control are to work constructively, intelligently and transparently, both at the national level, and within each public entity. Without support and a constructive cooperation between the parties, it will be difficult to achieve the major objectives set out in the approved policy documents.

As in the previous years, the situation regarding the implementation of the requirements and recommendations was a matter of concern for both the Court of Accounts and the civil society, which was constantly involved in supporting the implementation of audit recommendations in order to raise awareness among the public and the State authorities about the need for a more responsible approach to the use of public resources and assets.

Recommendations

- Consider the possibility and the appropriateness of reviewing the regulatory framework to allow other individuals (non-participants) to challenge the public procurement procedures;
- Ensure the implementation and the enforcement of the newly adopted rules by developing a strong and effective public procurement system;
- Take steps to address the irregularities and deficiencies identified as a result of audit missions in order to avoid future malfunctions in the public procurement system;
- Empower the supreme auditing institution to establish audieted entities' failure to execute the recommendations and requirements formulated in auditing reports, following completion of the preliminary procedure;
- Legislative regulation of the reporting of audited entities on the fulfillment of the requirements and implementation of the recommendations of the Court of Accounts;
- Provide trainings on changes following the harmonization of legislation for the contracting authorities and economic operators, as well as for the representatives of the PPA and of the National Agency for Settlement of Complaints;

- Organize information campaigns on the new rules on public procurement procedures;
- Take steps to address the irregularities and deficiencies identified as a result of audit missions in order to avoid future malfunctions in the management of public resources and public patrimony;
- Ensure the implementation of recommendations concerning the required measures to address the deficiencies / drawbacks / irregularities identified during audit missions;
- Establish, at the legislative level, the managerial accountability for irregularities and deficiencies identified by the Court of Accounts as a result of its audit missions.

VI. TRANSPARENCY AND PUBLIC REPORTING, PARTICIPATION OF THE SOCIETY (ART. 10, 13)

ARTICLE 10

Public reporting

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

a) adopting procedures or regulations allowing the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern the public;

b) simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

c) publishing information, which may include periodic reports on the risks of corruption in its public administration.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Moderate**	The article ***has been adopted and transposed into the national legislation***. The assessment shows that, at the level of declared/ assumed policies and adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but less so in terms of practical enforcement of these norms, which is marked by deficiencies.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova fully complies with the UNCAC norms set out in Art. 10. Reference was made to the provisions of the adopted legislation. The self-assessment report only makes reference to the existing legal framework, without highlighting the practical implications of the adopted norms.

CAPC Findings

The principles of good governance imply **transparency in drafting and adopting regulatory acts**. The decisions drafted and adopted in a transparent and participatory process enjoy support from society and have greater chances of serving the public interest. Although there are legal and institutional prerequisites in the Republic of

Moldova for a transparent and participatory decision-making process, they are applied selectively and lead to the erosion of the citizens' trust in State institutions.

According to the Report **on Transparency in Decision-Making** at the level of central public administration[47], in 2017, central public administration authorities ensured the transparency of decision-making by launching the website www.particip.gov.md, where draft laws and government decrees are posted and are open to public comments, recommendations and proposals. During the period under consideration, 72.4 percent of draft laws and 80.4 percent of draft government decrees and decisions were published on the www.particip.gov.md website and submitted for public consultations. Internal rules for the procedures on informing, consultation and participation in decision-making were in place in less than half of the public institutions subjected to monitoring, and information on the name, position and telephone number of the official in charge of the decision-making process within the central public authority was totally or partially available in most cases. Announcements on the initiation of a draft / decision, and on the conduct of public consultations were published for to half of the total number of decisions. 33 percent of CPA authorities complied with transparency requirements in public service and published their yearly reports on transparency in decision-making, and 17 percent have published reports containing qualitative and quantitative indicators established to measure transparency in decision-making[48].

As far as the Parliament is concerned, the legal provisions in this field remain defective and still dispersed in a range of regulatory acts. Although an institutional framework is in place, it does not seem to effectively foster a greater transparency in parliamentary decision-making. There is a certain degredation in terms of the number of draft legislative acts whose additional documents are accessible on the website. In many cases, the committees' opinions, the NAC report, the Government's opinion, the final draft, the opinion of the General Legal Directorate, the Russian version of the draft, the report (co-report) of the notified parliamentary committee, and the informative note[49] are unavailable. Many draft legislative acts submitted by the Government to the Parliament were not transmitted in accordance with legal provisions; notably, the lack of documents required in the annex of the draft legislative act (eg, the summary of the recommendations made during the consultations, the summary of the opinions issued by the ministries, a synthesis of NAC review reports, the concordance table on the compatibility of the draft legislative act with EU legislation, the declaration of compatibility, the regulatory impact assessment document, whether the legislative act regulates an entrepreneurial activity, etc.)[50].

Insufficent submission, examination and enforcement of draft legislation of major importance remain a serious problem. Even worse is the violation of the procedures in force when submitting, examining and adopting draft laws with no decision-making transparency[51]. The adoption at the end of the spring/summer 2018 parliamentary session of Law 180/2018 on voluntary declaration and tax incentives is an example of evasion and serious violation of transparency procedures in the decision-making process. A number of non-governmental organizations have signed a note to express their position[52] in which they condemned the adoption of the respective law by the Parliament and requested the President of the Republic of Moldova not to promulgate the law in question. The drafts were promoted neglecting democratic processes and without any rigorous technical review which is indispensable for such reforms. No public hearings were held on the drafts, and the process of launch and validation of the draft Law on voluntary declaration and tax incentives was unduly fast and non-transparent, excluding civil society participation. No public consultations were held, and no anti-corruption review was conducted, despite it being mandatory according to law. The Parliament's actions in terms of conducting public consultations do not prove that public involvement in the parliamentary decision-making process has become a reality. At the same time, according to State Chancellery's report, with the entry into force of the new Law on regulatory acts and successful launch of the e-Legislative Information System aimed at facilitating the legislative process, the itinerary of a draft regulatory act will become public at all stages of the legislative process (drafting, endorsement, review, including summaries of relevant anti-corruption review reports from the draft process) and will exist within one single system, thus ensuring greater transparency[53].

Although the Republic of Moldova set up the required legal framework for **ensuring the participation of citizens in the decision-making process**, it does not function effectively at the local level, as stated in the Monitoring Report on "Open Local Government for Active and Informed Citizens"[54]. According to this report, there are still local public authorities that do not have an official website to record their work or inform citizens on public affairs. The lack of such an instrument and/or failure to use it leads to a low level of transparency in the activity of LPA. Moreover, not all websites contain special sections dedicated to decision-making transparency, and those that have such sections do not post all the information requested by the law. In 2017, only 28 percent of municipal/district councils reported information on management of the property of public entities, 14 percent of municipal/districts councils reported information on fundraising and management of external aid, and 40 percent of municipal/district councils reported the yearly and quarterly public procurement plans of public entities on their official websites[55]. At the same time, the largest share of LPAs fail to inform the public about draft decisions / ordinances or related materials prior to meetings with the public authority; a synthesis of the recommendations made as a result of consultations is not made public, thus depriving interested parties of the opportunity to become aware of the accepted or rejected recommendations, and/or of the reason for rejection. Most LPA authorities did not develop or approve internal rules for informing, consultation and participation in decision-making processes. At the same time, notwithstanding the obligation to post these rules on their websites, not all authorities comply with this requirement[56]. LPA authorities also have arrears in terms of drawing up and making public the reports on transparency in the decision-making process.

Recommendations

- Inform the public at all stages of the decision-making process, including after the adoption of the decision, so that it is obvious to what extent the proposals and recommendations of the citizens, non-governmental organizations, and other stakeholders were taken into account;
- Ensure a democratic process, decision-making transparency and broad public consultations, with sufficient time limits for reactions and opinions from the concerned individuals and organizations;
- Undertake measures to build websites and update them with relevant information about the decision-making process, as a genuine and effective tool for dissemination of public information by LPAs;
- Ensure broad public access to draft decisions and related materials through their mandatory publication on the official website of the local public authority, utilizing electronic and e-government tools to comply with the legal requirements for transparency in decision-making processes;
- Develop and approve internal rules for information, consultation and participation in the process of drafting and adopting decisions, based on the legal provisions in force;
- Draw up and make public yearly reports on transparency in decision-making;
- Set up control and sanction mechanisms for non-observance of decision-making transparency.

ARTICLE 13

Participation of the society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:
    a) enhancing the transparency of and promoting the contribution of the public to decision-making processes;
    b) ensuring that the public has effective access to information;
    c) undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
    d) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
        (i) for respect of the rights or reputations of others;
        (ii) for the protection of national security or public order or of public health or morals.
2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Moderate**	The article ***has been adopted and transposed into the national legislation***. The assessment shows that, at the level of declared/ assumed policies and adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but less so in terms of practical enforcement of these norms, which is marked by drawbacks.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova fully complies with the UNCAC norms set out in Art. 13. Reference was made to the provisions and certain policy documents and laws adopted, along with a series of statistical data on training sessions conducted in this field. The Self-Assessment Report only makes reference to these documents, without highlighting their findings.

CAPC Findings

National regulations on **access to information and mass-media activities** are largely in line with the best international practice. However, they are neither sufficient, nor effective. A retrospective of a number of studies and research carried out over the past years pointed out the drawbacks that require remediation, including the frequent and sometimes inappropriate intervention in the content of the existing laws, what shatters the stability of the legal framework[57].

A study[58] conducted by the Center for Policies and Reforms points out that the observance of the right to information is quite problematic. According to it, the authorities answered only 43 percent of the requests submitted in accordance with the Law on Access to Information. In the case of 28 percent of requests, the authors of the study received an answer on the last day of the prescribed time limit, and 14.3 percent of the requests were answered after the deadline stipulated by the law. Approximately one third of requests were not satisfied by the authorities. The most frequently, the officials refuse to provide the requested information under the pretext of protecting the State secret, trade secrets or personal data. The information is often delayed, the answers are formal or incomplete, and the procedure of request for information is excessively bureaucratized. No information of public interest is published on the authorities' websites or the information is not updated, a negative attitude is displayed towards information seekers and/or the responsibility is shifted to another institution. At the same time, officials from many public institutions often apply (intentionally or out of ignorance of the legal provisions) the Law on Petitions instead of the Law on Access to Information. Or, if a request for information is considered as a petition, the time limit for its examination is 30 working days, rather than 15 days, as required by the Law on Access to Information. The Law on petitions is also used to reject a request, invoking its non-compliance with the bureaucratic requirements for a petition (for example, if a request for information is sent by e-mail, it shall meet the requirements for the electronic document, including the application of a digital signature). Therefore, it is very important to apply the relevant provisions of the legal framework in force[59].

Another non-governmental organization, Lawyers for Human Rights, that promotes the international human rights standards, including by taking over the strategic litigation on cases related to access to information, found/ identified errors in the application and / or interpretation of the incident regulatory acts, in particular: confounding the right of access to information of public interest and the right of access to other categories of information, incorrect classification of the issues under the Law on access to information, abusive interpretation of the provisions of the Law on personal data protection, delimitation of the official information with restricted accessibility from the information liable to be provided, violation of the above-mentioned legal provisions, in particular, as a result the excessive application of the legal provisions regarding the protection of personal and commercial data or the submission of inappropriate information. Over the years, the organization has summoned several public institutions into court to compel them to provide the requested information[60], contributing thus to systemic changes in the society that go beyond the individualized measures and involve structural changes by taking over the strategic litigation cases of undue obstruction of the access to information of public interest.

Since 2007, with the approval of the Law on Personal Data Protection, the Republic of Moldova has established a modern right - the right to the protection of personal data deriving from the constitutional right to the inviolability of private and family life, nevertheless, certain civil servants or managers of public entities have used these law principles which are inherent to the human being in an excessive, distorted way and to the detriment of the public interest, when it prevailed over the right of the individual to privacy. Thus, the mass-media, the public organizations, as well as the ordinary citizens repeatedly complained about the abusive and outdated interpretation of the information of public interest containing personal data. The refusals to provide such information were grounded in the standard argument, deprived of legal effects, that the access to information is limited, as it contains personal data.

In his Yearly Report 2017[61], the Ombudsman drew the attention of public authorities to the obligation of civil servants to observe their duties in the process of **providing information of public interest**, in accordance with the legal provisions, taking into account that the right to information is often restricted because of bureaucracy, indifference and lack of accountability. In Yearly Report 2016, the Ombudsman mentioned the need for amending the Code of Contraventions towards tightening the punishments for breach of the legislation on access to information or on petitioning. According to the data provided by the Ministry of Internal Affairs, 140 proceedings for violation of the legislation on access to information were recorded in 2017. As a result, 101 people were sanctioned, 76 - paid fines, 14 cases were further submitted to the National Union of Bailiffs and 13 cases were dismissed. At the same time, four proceedings were launched for submissiuon of a response containing erroneous data[62]. At the local level, as far as Chisinau Municipal Council is concerned, for example, 19 cases of refusal of the authority to provide access to information were brought to court throughout the year 2017. The court issued 10 judgements compelling the public authority to provide the requested information[63].

In 2016, the Republic of Moldova was subjected to the second Universal Periodic Review (UPR), accepting the implementation of 175 recommendations out of a total of 209 recommendations from 75 countries. An official country commitment was also formulated towards developing and putting into practice a new National Human Rights Action Plan. In the field of mass-media, the recommendations to the Moldovan authorities aimed at ensuring the right to information and to freedom of expression by: setting up a favorable working environment for journalists and media outlets; securing online and offline freedom of expression; reducing the excessive monopolization of media outlets; ensuring media pluralism and media independence. The accepted recommendations are to be implemented by 2021, when the Moldovan authorities will be evaluated again by the international community, under the United Nations auspices, within the third UPR cycle.

With regard to transparency in decision-making and public participation in this process, see the findings and recommendations related to Art. 10.

Recommendations

- Develop a sufficient and efficient legal framework for the enforcement of the right to information;
- Develop the required tools and methodologies for the enforcement of the right to information;
- Exclude the erroneous interpretations of the fundamental concepts governing the access to information;
- Ensure a balance between the right to personal data protection and the right to freedom of expression and information;
- Prevent misinterpretation of the right to personal data protection in relation to the observance of the right to information and to freedom of expression;
- Ensure that public authorities publish on their official websites all information of public interest relevant to citizens' interests;
- Inform the officials responsible for the procedures of official information provision regarding sanctions applied in cases of non-observance of the Law on access to information and regarding the rules for publication of information on the websites of public institutions;
- Provide training to public officials in the field of access to information and on the effective application of the Law on access to information.

VII. PREVENTIVE MEASURES RELATING TO THE JUDICIARY AND PROSECUTION SERVICES (ART. 11)

ARTICLE 11

Measures relating to the judiciary and prosecution services

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen their integrity and to prevent possibilities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.
2. Measures to the same effect as those taken pursuant to paragraph 1 of this Article may be introduced and applied within the prosecution service in those States Parties, where it makes up a distinct corps, but enjoys independence similar to that of the judicial service.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Poor**	The article ***has been adopted and transposed into the national legislation***. The assessment shows that, at the level of the adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but less so in terms of practical enforcement of these norms, which is marked by drawbacks, and, in certain situations, the respective norms are not applied.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova fully complies with the UNCAC norms set out in Art. 11. Reference was made to the provisions and principles of policy documents and of the legislation adopted in this field, along with reports, studies and surveys developed in this area. However, the Self-Assessment Report only makes reference to these documents, without highlighting their findings.

CAPC Findings

Ensuring integrity of the judiciary, including the integrity of judges and prosecutors, is one of the major challenges for the Republic of Moldova. With the adoption of the Strategy for Justice Sector Reform 2011-2015 in 2011, a number of priority actions have been set to ensure the development and the implementation, at the legislative and practical level, of tools to ensure integrity and prevent the corruptible behavior among the representatives of the judicial sector. The policy document provided inter alia for strengthening or setting new anti-corruption measures pertaining to: recruitment and evaluation of the performance of prosecutors and judges, verification of judges/prosecutors and of the candidates for such positions; polygraph test; declaration

and control of assets and personal interests; assessment of the professional integrity, including declaration of undue influences; declaration of prohibited communications; declaration of gifts; whistle-blowing; anti-corruption telephone lines; random allocation of cases in courts, etc. At the same time, the SJSR also aimed at reinforcing the disciplinary accountability mechanisms and at establishing mechanisms for detection and response to ethical deviations committed by the sector's stakeholders. Upon the expiry of the time limit for SJSR implementation, a civil society study on the degree of implementation of anti-corruption policies within the judiciary pointed out that the level of application and their effectiveness are minimal. None out of the nine instruments subjected to monitoring[64] was assessed with a maximum implementation score covering both dimensions: legislative and practical. Three anti-corruption tools are not used in the judiciary: a) polygraph test; b) declaration of prohibited communications; c) whistle-blowing.

The SCM has endeavored to build a system to respond appropriately to ethical misconduct of judges, after such deviation was eliminated from the disciplinary liability system. However, this system is still inoperational, due partially to the contradictory approaches within the SCM, as regulations in this area[65] have undergone conceptual changes mere months after their adoption. Moreover, the establishment of the Judicial Ethics Committee within the SCM raised a lot of criticism from civil society and the mass-media, given that certain members of the Committee are SCM members with a reprehensible reputation and integrity issues[66]. The Fourth Round GRECO Evaluation Report on the Republic of Moldova[67] noted that "*awareness of the rules of ethics and integrity among judges needs to be enhanced and the rules concerning the gifts and other benefits shall be applied accordingly*".

Public trust in the judiciary and in prosecution services remains a critical issue for these institutions. Freedom House research on "Judicial Integrity: Achievements, Challenges, Prospects"[68] presents a series of statistical data revealing the involution of the degree of trust in the judiciary, as well as of the perceptions about the sector's integrity, as a whole. The latest survey conducted in 2018[69] points out that the phenomenon of corruption is present among the judges, and an increasing share of respondents who came into contact with the judiciary think so: 83 percent. At the same time, 13 percent of those interacting with the judiciary stated they had offered money / gifts during the trial, and 24 percent of respondents claimed that such favors and undue advantages were requested (however, they did not give them).

With the limitation of the judicial immunity in 2012, the number of criminal cases against judges has increased. A "record" was set in 2016, when 21 judges became subjects of NAC criminal investigations for corruption offenses. As far as prosecutors are concerned, the number of corruption cases against them and with their involvement also appears to be increasing from year to year.

The operation of the system of random allocation of cases[70], publicization of trials and publication of court judgements were also marked by degredation. Depersonalization of judgments (i.e. the exclusion of names and other personal data from the texts of the judgments) became the subject of public debates in Moldova early in 2017, when the practice of depersonalization and the elimination of the option to search by name on the court websites became a subject of controversy, causing discontentment among journalists, civil society organizations, as well as among the judiciary's stakeholders[71].

The SJSR also covered reform of the prosecution system, a reform that faced a number of impediments, including political ones, and generated public suspicion[72]. The process of construction of a reformed prosecution system has closely followed the formula applied to the judiciary, and it even replicated similar guarantees of independence, along with the procedures for recruitment and performance evaluation. A Code of Ethics for prosecutors was approved, but sanctioning of ethical misconduct is part of the disciplinary system, the deviations being examined by the same committee – for ethics and discipline. The committee's reports do not present statistical data on the categories of ethical deviations committed by prosecutors and the sanctions applied.

Recommendations

- Guarantee and fulfill the requirements for transparency in the judiciary;
- Provide appropriate and prompt responses to whistle-blowing in this sector, ensure the irreversibility of accountability and internal rehabilitation;
- Effectively enforce the legal provisions for the selection and the career of judges and prosecutors, ensure the rectification of evaluation and selection criteria; if they are not relevant and appropriate, motivate the decisions and permanently ensure the transparency at all stages and of all decisions;
- Strengthen the mechanisms for investigation and remediation of ethical misconduct in the institutions of the judicial sector; effectively inform judges and prosecutors on codes of conduct and professional ethics and supplement them with written guidance on ethical issues, including explanations, guidelines for their interpretation, and concrete examples - and update them periodically.

VIII. PREVENTING CORRUPTION IN THE PUBLIC SECTOR (ART. 12)

ARTICLE 12

Private sector

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.
2. Measures to achieve these ends may include, inter alia:
    a) promoting cooperation between law enforcement agencies and relevant private entities;
    b) promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;
    c) promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;
    d) preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;
    e) preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;
    f) ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.
3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations, regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:
    a) establishment of off-the-books accounts;
    b) making of off-the-books or inadequately identified transactions;
    c) recording of non-existent expenditure;
    d) entry of liabilities with incorrect identification of their objects;
    e) use of false documents; and

f) intentional destruction of book-keeping documents earlier than foreseen by the law.

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with Articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Partially**	**Poor**	The article ***has been adopted and transposed into the national legislation***, but its practical enforcement is marked by drawbacks.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova complies with the UNCAC norms set out in Art. 12. Reference was made to the legal provisions adopted for this purpose, along with the reports, studies and surveys developed in this area.

CAPC Findings

Until 2017, Moldovan legislation had no systemic approach to corruption in the private sector, as corruption was only seen as a vice of the public sector; the Criminal Code (Chapter XVI) contained only a few separate provisions criminalizing corruption in the private sector, along with regulatory provisions on accounting standards and internal audit rules (concerning the joint-stock companies). The adoption of the NIAS and of Law on Integrity 82/2017 gave rise to a new approach, the issue of corruption in private sector being recognized at the level of policies and legislation, especially in connection with public sector.

The study on Fighting corruption in Moldova: What can the business do?[73], which included surveys and focus groups with representatives of the private sector, reveals the views of the business representatives who acknowledged that *"the practice of developing and implementing anti-corruption programs and tools in private sector is not common for the entrepreneurs in the Republic of Moldova. Companies do not have bribery prevention and sanctioning procedures, have not developed an Internal Business Ethics Code / Guidelines for their employees, do not apply sufficient auditing standards to facilitate the prevention and detection of corruption acts. [...] The data about companies in the Republic of Moldova shall be transparent, and the activities with a high risk of corruption should be reported in particular"*.

The Report on the evaluation of the compliance of the national anti-corruption system in the Republic of Moldova with the main international standards in the field of combating corruption and integrity in private sector[74] presented a through analysis of the compliance of national legislation and practices with the provisions of Art. 12 of UNCAC. It highlighted a range of provisions that have not been taken up in the Moldovan regulatory framework and practices, in particular: approval and implementation of Codes of Conduct within the private sector, approval and application of internal audit rules and of good commercial practices by businesses and among them. Although the NIAS set a number of actions intended to ensure the integrity in private sector, the Report on the implementation of NIAS actions in 2017[75] revealed a risk of unwillingness in private sector to commit to the

increase of *"its resistance to corruption risks. This fact determines the need to strengthen the endeavors of public and private sectors, as well as of the associative sector to enhance the transparency of the relationship between the private and the public sectors (Actions no. 1, 2)"*.

According to authorities, the legislative package adopted in summer 2018[76] was designed to decongest the business environment, reduce legal pressure on the business environment and create tax incentives for entrepreneurs. It was viewed by civil society, the mass-media and development partners as providing a distorted message to the private sector. Most of the provisions of these laws were aimed at exempting businesses from liability, suspending tax inspections during the "fiscal stimulus" period, etc., thus encouraging private sector to elude legal provisions and benefit from the State's clemency, instead of building an internal system promoting integrity principles.

Recommendations

- Set up partnerships between anti-corruption public authorities and the private sector;
- Develop and promote an information and awareness campaign on manifestations of corruption in the private sector and associated risks;
- Develop a system for promoting business ethics and anti-corruption standards in the private sector, consider the need for developing a joint plan between the authorities and private sector;
- Encourage the private sector to adopt and implement codes of conduct, consider adapting the codes to the needs of small businesses.

IX. PREVENTING MONEY LAUNDERING (ART. 14)

ARTICLE 14

Measures to prevent money laundering

1. Each State Party shall:

    a) institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money laundering, within its competence, in order to deter and detect all forms of money laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

    b) without prejudice to Article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money laundering (including, where appropriate under domestic law, the judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money laundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards, to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

    a) to include accurate and meaningful information on the originator on forms for the electronic transfer of funds and related messages;

    b) to maintain such information throughout the payment chain; and

    c) to apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

4. In establishing a domestic regulatory and supervisory regime under the terms of this Article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money laundering.

5. States Parties shall endeavor to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money laundering.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Moderate**	The article ***has been adopted and transposed into the national legislation***, but the practical enforcement of its norms is marked by drawbacks.

Findings of the Self-Assessment Report

The Self-Assessment Report noted that the Republic of Moldova complies with the UNCAC norms set out in Art. 14. Reference was made to the provisions of the legislation adopted for this purpose.

CAPC Findings

The legislation pertaining to money laundering prevention and combating was substantially revised late in 2017 to be brought into line with the new European Union Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. The new Law 308/2017[77] on preventing and combating money laundering and terrorist financing has strengthened the preventive system in this field, regulating in a detailed manner the chain of reporting entities, the customer-related caution measures and identifying the beneficial owners, as required by Art. 14 par. (1) of UNCAC. Apart from Law 308/2017, the SPCML developed and approved a set of acts subordinate to the law[78], pursuing the same goals. In its turn, the National Bank of Moldova developed a range of regulations, guidelines and recommendations, but most of them made reference to the old Law on Money Laundering. It should be noted that the previous legislation contained sufficiently consistent provisions on money laundering prevention, but, despite those regulations and the existence of a chain of specialized institutions with control and monitoring tasks, throughout the period 2010-2015, occurred several bad events from the perspective of prevention and appropriate response to money laundering: the so-called ***"Laundromat" and the frauds committed at the Savings Bank (Banca de Economii)***. According to a research conducted by Expert Group, *"throughout the period 2010-2014, around USD 20 billion from the Russian Federation transited the domestic banking sector, transforming thus the Republic of Moldova into a machine for illicit money laundering and subsequent transfer to destination countries. [...] The involvement of politically exposed people, high-level corruption, fraudulent financial resources or the use of off-shore entities are just the most important elements that allowed the establishment and the operation of complex money laundering mechanisms through the national banking system"*[79]. The new regulatory framework in force since 2017 was meant to develop and amplify the system of response to such events. However, in parallel with the new Law on Money Laundering and after its adoption, several laws were promoted and adopted which, apparently, could reenforce the money laundering phenomenon. These are the laws on:

- ***Citizenship by investment program***[80] which makes it possible to obtain the citizenship of the Republic of Moldova through investment. According to national experts[81], this law represents an imminent and direct danger to the country's security. Such programs are characteristic of tax havens or off-shore areas that often refrain from implementing the international standards of transparency and disclosure of information, while investment in real estate sector is the main mechanism worldwide for integrating the funds obtained from money laundering;
- ***Law on Voluntary Declaration and Tax Incentives***[82], adopted by the Parliament in summer 2018, dictates that individuals who de facto own property, but who had previously legally registered the right

of ownership on behalf of another person (the nominal owner), may declare the respective property, as well as that previously declared at lower value in return for payment of a three percent fee to the State budget. The law's provisions for prohibiting the tax authorities from checking the correctness of calculating and paying taxes and other fees throughout the period subjected to tax amnesty give the possibility to legalize illicit amounts of money.

- ***Decriminalization of a series of offenses*** relating to business entities, exempting them from criminal punishment in exchange for paying a double amount of the damage caused through the offense.

Recommendations

- Set clear procedures for risk identification and internal coordination – the financial institutions should allocate sufficient resources to promote anti-corruption and anti-money laundering programs;
- Apply appropriate preventive measures to identify the customers, especially the beneficiary owners;
- Identify and carefully manage relationships with politically exposed persons – by virtue of the status and political influence of some individuals, the risk of their involvement in money laundering is much higher;
- Keep and exchange information with concerned institutions in this field - being reporting entities, financial institutions shall ensure clear and rapid procedures for disseminating money laundering information to competent institutions;
- Facilitate cross-border cooperation - at the international level, States should ensure that agreements on rapid exchange of information and on the relationships between financial institutions are in place.

X. ASSET RECOVERY (CHAPTER V OF UNCAC)

X.1. Prevention and detection of transfers of proceeds of crime (Art. 52)

ARTICLE 52

Prevention and detection of transfers of proceeds of crime

1. Without prejudice to Article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.
2. In order to facilitate the implementation of the measures provided for in paragraph 1 of this Article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money laundering, shall:
    a) issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and
    b) where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.
3. In the context of paragraph 2 (a) of this Article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this Article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.
4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.
5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for

non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties, when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Poor**	The article ***has been adopted and transposed into the national legislation***. The assessment shows that, at the level of adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but the practical enforcement is marked by drawbacks.

Findings of the Self-Assessment Report

According to the responses provided by national authorities, the Republic of Moldova complies with the provisions of Article 52 of the Convention. The national authorities made reference to the national laws and regulatory acts connected to the respective laws (in force at the time when the report was drawn up), covering the provisions of Article 52 of the Convention. The report does not contain examples, statistical data, reports, jurisprudence, etc. which would demonstrate that the respective regulatory acts were effectively enforced.

CAPC Findings

Since the submission of the Self-Assessment Report by national authorities, the regulatory framework has undergone major changes. At present, the provisions of Article 52 of the Convention are satisfactorily taken up from the legal viewpoint and transposed into the national laws and regulatory acts: Law No.308 of 22.12.2017 on preventing and combating money laundering and terrorism financing; Law no.202 of 06.10.2017 on banking activity; Order of SPCML no.15 of 08.06.2018 on the approval of the Guidelines for the identification and reporting of suspected money laundering activities or transactions; Order of SPCML no. 16 of 08.06.2018 on the approval of the Guidelines for the identification and reporting of suspected terrorism financing activities or transactions; Order of SPCML no. 17 of 08.06.2018 on the approval of the Guidelines for the identification and monitoring of the politically exposed persons; Order of SPCSB no. 18 of 08.06.2018 on the approval of the Guidelines for the reporting of activities or transactions falling within the scope of Law no.308 of 22.12.2017. However, certain provisions (eg, Article 4 (1) (a)) of the new Law on preventing and combating money laundering and terrorism financing need to be adjusted to the legislation in force, as they refer to legislative provisions that have already been abrogated (Chapters I, II, III, III/1, IV, V, V/2, VI, VII of the Law on Financial Institutions no.550 / 1995 were abrogated by the Law on Banking Activity no. 202 of 06.10.2017).

It should be noted that the legislation has not been and is not being enforced in a satisfactory manner (neither the old, nor the new regulatory framework). This is clear, given the production of the "Russian laundromat"[83] throughout the period 2010-2014, the "theft of the billion"[84] and the inaction of public authorities in preventing the illegal actions, and then – in recovering the money.

Pursuant to Law No. 308 of December 22, 2017[85], the SPCML shall organize, conduct and update, at least every three years, the assessment of money laundering and terrorism financing risks at the national level and its report shall be published on SPCML website. According to SPCML Activity Report 2017[86], the national report on the assessment of money laundering and terrorism financing risks[87] was launched in 2017, being followed by the adoption of the Action Plan on Mitigating the Risks in the field of Money Laundering and Terrorism Financing for 2017-2019, approved by Government Decree no. 791 of 11.10.2017. Although the risk assessment should have included the identification of the actual risk areas based on the identified money laundering typologies, the report does not review the issues related to the involvement of the judiciary, which was the main catalyst[88] for the "Russian laundromat", nor the involvement of the politicians in the "theft of the billion". Moreover, the risk assessment report does not analyze the reasons, the mechanisms, and the impact of the inaction or of inadequate actions of the public authorities responsible for preventing/combating money laundering.

At the public policy level, politicians promote and State institutions accept the promotion of a legal framework[89] that acts against money detection, tracking and recovery. Thus, on July 26, 2018, the Moldovan Parliament adopted the Law on Voluntary Declaration and Tax Incentives, which allows individuals (Moldovan citizens) to declare their money, real estate, means of transport, securities, shares, for a fee amounting to three percent of the value of the voluntarily declared property/money. One of the guarantees (Article 11 of the Law) granted by the State, represented by public authorities, consists in the fact that "no discriminatory measures against the subjects of the voluntary declaration shall be admitted in the future with regard to the voluntarily declared property"[90].

Recommendations

- Align Law no.308 of 22.12.2017 on preventing and combating money laundering and terrorism financing to the provisions of the Moldovan legislation in force;
- Risk assessment should include the identification of the actual risk areas which are specific to the Republic of Moldova (but not presumptive and general), based on money laundering typologies already identified;
- Launch and strengthen mechanisms to ensure that State institutions (machinery) work in the public interest, not in the interest of politicians or private groups;
- Analyze the impact of the judiciary's involvement in money laundering; identify and implement solutions for avoidance of such situations in the future.

X.2. Measures for recovery of property (Art. 53 and 54)

ARTICLE 53

Measures for direct recovery of property

Each State Party shall, in accordance with its domestic law:

a) take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

b) take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

c) take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

ARTICLE 54

Mechanisms for recovery of property through international cooperation in confiscation

1. Each State Party, in order to provide mutual legal assistance pursuant to Article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:
    a) take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;
    b) take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and
    c) consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, evasion or absence or in other appropriate cases.
2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of Article 55 of this Convention, shall, in accordance with its domestic law:
    a) take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this Article;
    b) take such measures as may be necessary to permit its competent authorities to freeze or

seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this Article; and

c) consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Poor**	Both articles ***have been adopted and transposed into the national legislation***. The assessment shows that, at the level of the adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but there is no proof of their efficient practical enforcement.

Findings of the Self-Assessment Report

According to the responses provided by national authorities, the Republic of Moldova complies with the provisions of Articles 53 and 54 of the Convention. The national authorities made reference to national laws covering the provisions of Articles 53 and 54 of the Convention. The report does not contain any examples, statistical data, reports, jurisprudence, etc. that would prove the efficient enforcement of the respective laws.

CAPC Findings

The provisions of Articles 53 and 54 of the Convention, from a legal point of view, are satisfactorily adopted and transposed at the national level into the following laws: Title IV entitled "The Procedure in Trials with a Foreign Element" of the Civil Procedure Code of the Republic Moldova no.225-XV of 30.05.2003; Chapter III entitled "Recovery of Criminal Assets" of Title VII "Patrimonial Issues in Criminal Proceedings" of General Part and Chapter IX entitled "International Legal Assistance in Criminal Matters" of Title III "Special Procedures" of the Special Part of the Criminal Procedure Code of the Republic of Moldova no.122-XV of 14.03.2003; Art.106 and 106[1] of the Criminal Code of the Republic of Moldova no. 985-XV of 18.04.2002; Law No.371-XVI of 01.12.2006 on International Legal Assistance in Criminal Matters; Law no. 48 of 30.03.2017 on the Agency for the Recovery of Criminal Assets.

With regard to the effective enforcement of the above-mentioned laws, it should be noted that, in the public space, there is no statistical data concerning the number of requests from other States for legal assistance in recovering assets located in the territory of the Republic of Moldova.

In addition, the available public information does not contain statistical data on requests submitted to other States by national authorities for the recovery of assets located on the territory within other jurisdictions. In June 2018, the national authorities made public, at a press conference, the Strategy for the recovery of the financial means embezzled from the commercial banks "Banca de Economii" JSC, "Banca Sociala" JSC and "Unibank"

JSC[91], which in fact describes the fraud and makes an awkward review of the legislative provisions regulating the powers of public authorities in the field of recovery and recovery mechanisms / procedures. The main positive conclusions regarding the Strategy consist in the fact that: it was made public and the politicians, given the public pressure, can no longer avoid the issue of this fraud investigation; it was acknowledged that no money had been recovered out of the stolen billion and that the Ministry of Finance[92] misleads the public opinion, presenting the revenue coming from the liquidation of the banks as a recovery of fraudulent assets. Thus, the document has mainly a political essence, being carefully formulated to protect governing politicians, what raises concerns about the independence of the Strategy's authors; the document presents distorted facts (not only about the recovery of the billion stolen from the reserves of the National Bank, but also about the recovery of the assets embezzled throughout the period 2007-2014), causing confusion and speculations[93].

Recommendations

- Effectively implement the national toolkit for asset recovery through international cooperation;
- Publish statistical data about the number of requests for legal assistance on asset recovery submitted by other States and about requests sent to other States by national authorities.

X.3. International cooperation for the purposes of confiscation and special cooperation (art. 55)

ARTICLE 55

International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in Article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible, within its domestic legal system:
    a) submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or
    b) submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with Articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in Article 31, paragraph 1, situated in the territory of the requested State Party.
2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in Article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this Article, by the requested State Party.
3. The provisions of Article 46 of this Convention are applicable, mutatis mutandis, to this Article. In addition to the information specified in Article 46, paragraph 15, requests made pursuant to this article shall contain:
    a) in the case of a request pertaining to paragraph 1 (a) of this Article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party, sufficient to enable the requested State Party to seek the confiscation order under its domestic law;
    b) in the case of a request pertaining to paragraph 1 (b) of this Article, a legally admissible copy of an order of confiscation upon which the request is based, issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;
    c) in the case of a request pertaining to paragraph 2 of this Article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based .
4. The decisions or actions provided for in paragraphs 1 and 2 of this Article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

5. Each State Party shall furnish copies of its laws and regulations that give effect to this Article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.
6. If a State Party decides to make the taking of the measures referred to in paragraphs 1 and 2 of this Article conditional on the existence of a relevant treaty, that State Party shall consider this Convention as the necessary and sufficient treaty basis.
7. Cooperation under this article may also be refused or provisional measures may be lifted, if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.
8. Before lifting any provisional measure taken pursuant to this Article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.
9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Poor**	The article ***has been adopted and transposed into the national legislation***. The assessment shows that, at the level of the adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but there is no proof of their efficient practical enforcement.

Findings of the Self-Assessment Report

According to the responses provided by national authorities, the Republic of Moldova complies with the provisions of Article 55 of the Convention, except for the provisions of paragraph 5 setting the obligation of States Parties to send to Secretary-General of the United Nations copies of laws and regulations (including amendments to them) that give effect to Article 55 or their description. At the time of writing this report, no evidence of the compliance of the Moldovan authorities with the obligation set out in paragraph 5 of Article 55 of the Convention was available.

The report submitted by the national authorities does not contain examples, statistical data, reports, jurisprudence, etc. regarding the effective enforcement of the existing laws.

CAPC Findings

The provisions of Article 55 of the Convention are, from a legal viewpoint, appropriately adopted and transposed at the national level into the following laws: Articles 202-210, Chapter III entitled “Recovery of Criminal Assets” of Title VII “Patrimonial Issues in Criminal Proceedings” of the General Part and Chapter IX entitled “International Legal Assistance in Criminal Matters” of Title III “Special Procedures” of the Special Part of the Code of Criminal Procedure of the Republic of Moldova no.122-XV of 14.03.2003; Art.106 and 106[1] of the Criminal Code of the Republic of

Moldova no. 985-XV of 18.04.2002; Law No.371-XVI of 01.12.2006 on International Legal Assistance in Criminal Matters; Law no. 595-XIV of 24.09.1999 on International Treaties of the Republic of Moldova.

Regarding the effective implementation of the above-mentioned laws, it should be noted that no statistical data is available in the public space regarding the number of requests for confiscation of the proceeds of crime, property or of other instruments referred to in paragraph 1, Art. 31 of the Convention, received by the Moldovan authorities from other States and submitted by the Moldovan authorities to other States. In the absence of evidence for the effective implementation of the legal framework transposing the provisions of Article 55 of the Convention into the national legislation, we consider that the level of its enforcement is poor.

Recommendations

- Submit to Secretary-General of the United Nations the laws adopted by the Republic of Moldova on the enforcement of Article 55 of the Convention;
- Effectively implement the national confiscation toolkit in the framework of international cooperation;
- Publish statistical data on the number of legal assistance requests for purposes of confiscation received from other States and those submitted by national authorities to other States.

X.4. Return and disposal of assets. Financial intelligence unit (Art. 57, 58)

ARTICLE 57

Return and disposal of assets

1. Property confiscated by a State Party pursuant to Article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this Article, by that State Party in accordance with the provisions of this Convention and its domestic law.
2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.
3. In accordance with Articles 46 and 55 of this Convention and paragraphs 1 and 2 of this Article, the requested State Party shall:
    a) in the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in Articles 17 and 23 of this Convention, when confiscation was executed in accordance with Article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;
    b) in the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with Article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;
    c) in all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.
4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposal of confiscated property pursuant to this Article.
5. Where appropriate, States Parties may also give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of the confiscated property.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Poor**	The article ***has been adopted and transposed into the national legislation***. The assessment shows that, at the level of the adopted legislation, the Republic of Moldova is in line with the UNCAC provisions, but there is no evidence of its effective practical enforcement.

Findings of the Self-Assessment Report

According to the responses provided by national authorities, the Republic of Moldova complies with the provisions of Art. 57 of the Convention, making reference to national laws that transpose the respective provisions. The report of national authorities does not contain examples, statistical data, reports, jurisprudence, etc. demonstrating that the national laws covering the provisions of Article 57 of the Convention have been effectively enforced.

CAPC Findings

The provisions of Article 57 of the Convention are, from the legal point of view, taken up in a satisfactory manner and transposed at the national level into the following laws: Chapter III entitled "Recovery of Criminal Assets" of Title VII "Patrimonial Issues in Criminal Proceedings" of the General Part and Chapter IX entitled "International Legal Assistance in Criminal Matters" of Title III "Special Procedures" of the Special Part of the Code of Criminal Procedure of the Republic of Moldova no.122-XV of 14.03.2003; Law No.371-XVI of 01.12.2006 on International Legal Assistance in Criminal Matters; Law no. 48 of 30.03.2017 on the Agency for the Recovery of Criminal Assets.

Regarding the effective enforcement of the above-mentioned laws, it shall be noted that no statistical data is available in the public space regarding the number of cases of return of confiscated assets by the Moldovan authorities at the request of another State and vice versa. In the absence of evidence of effective enforcement of the legal framework transposing the provisions of Article 57 of the Convention into the national law, we consider that the level of its enforcement is poor.

Recommendations

Publish statistical data on the number of legal assistance requests for the return of the property confiscated by the Moldovan authorities formulated by other States and vice versa.

ARTICLE 58

Financial intelligence unit

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences, established in accordance with this Convention, and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

Has the norm been adopted by the Republic of Moldova?	Implementation at the legislative level	Practical enforcement	Rationale/Comments
Yes	**Fully**	**Moderate**	The article ***has been adopted and transposed into the national law***, but the practical enforcement of its norms is marked by drawbacks.

Findings of the Self-Assessment Report

According to the responses provided by national authorities, the Republic of Moldova complies with the provisions of Article 58 of the Convention. The national authorities provided certain statistical data on SPCML activity in 2015 (number of forms received from the reporting entities, number of registered analytical reports, number of dossiers placed under a monitoring regime, number of dossiers submitted to prosecution bodies, number of criminal cases initiated based on SPCML information).

CAPC Findings

The provisions of Article 58 of the Convention are, from the legal perspective, covered in a satisfactory manner and transposed at the national level into Law No. 308 of December 22, 2017 on Preventing and Combating Money Laundering and Terrorism Financing (on the date of submission of the report by national authorities, Law No. 190-XVI of 26.07.2007 on Preventing and Combating Money Laundering and Terrorism Financing was still in force).

The SPCML has a history of activity of more than 15 years, its foundation having been laid with the adoption of the first Law on Preventing and Combating Money Laundering and Terrorism Financing (Law No. 633-XV of 15.11.2001). Since its establishment, the SPCML has benefited from external assistance for capacity building and ensuring its operational independence; the SPCML has established cooperation relations with similar services within the relevant international organizations (Egmont Group, MONEYVAL Committee, EAG, Europol, GUAM); it has been subjected to evaluation by the Council of Europe's MONEYVAL Committee; it has established bilateral cooperation relations with similar services from 43 countries.

At the same time, SPCML's inaction in the "Russian laundromat" and the "theft of the billion", despite the existence of sufficient legal instruments to intervene, raises great questions about: the professional skills of SPCML staff, the SPCML independence (although, according to the new legislation, the SPCML became an independent public authority), the efficiency of the SPCML activity.

Recommendations

- Objectively and multilaterally assess the efficiency of SPCML activity and adopt measures to strengthen SPCML activity based on the results of the evaluation.

XI. RECOMMENDATIONS

In reference to Articles 5 and 6:

- Strengthen partnerships between the public authorities, civil society and the general public in the process of drafting and consulting policy documents and the regulatory acts in the field of corruption prevention;
- Ensure an effective process of promoting, raising awareness and understanding, and effective implementation of anti-corruption practices by public officials;
- Establish systemic practices for periodic review of anti-corruption policies and practices at least every five years, in order to assess the effectiveness, correctness and correlation with realities on the ground;
- Prevent political interference in the activity of anti-corruption bodies; provide the required guarantees for ensuring their independence in terms of logistics, finances and human resources consistent with their purpose and assigned tasks.

In reference to Article 7:

- Enhance transparency by ensuring public access to all information related to selection and employment of senior managerial public positions;
- Promote ethics and integrity of civil servants and of managers of public authorities by including special modules in training programs;
- Revise the max ceiling of donations from individuals and legal entities to electoral candidates who will run in uninominal constituencies, and further reduce the yearly ceiling of private donations to political parties and electoral competitors;
- Ensure the transparency of donor identity data by publishing information that would ensure a minimum level of transparency, while still protecting other categories of personal data, such as personal ID or domicile-related data;
- Toughen the sanctions for violation of rules for funding parties and election campaigns and increase the amount of the administrative fines, including by depriving political parties of public funds;
- Strengthen the endeavors of civil society (specialized public associations, investigative journalists) in the process of monitoring of NIA activity;
- Initiate the control of property, personal interests, conflicts of interest, incompatibilities and restrictions in civil service as soon as possible.

In reference to Article 8:

- Modify the legal framework in order to eliminate the regulatory drawbacks or lack of clarity favoring civil servants with integrity problems;
- Set up a National Agency of Civil Servants in the Republic of Moldova, which will be tasked with the establishment and implementation of mechanisms for the effective application of professional conduct standards in civil service;
- Adopt a Code of Ethics and Conduct for Members of Parliament and establish an appropriate mechanism, within the Parliament, for promoting the Code, for raising deputies' awareness of the standards set for them, and for implementating standards;

- Ensure the enforcement of legal norms that would encourage whistle-blowing for illegal practices and other issues of public interest;
- Ensure a democratic process, decision-making transparency and broad public consultations with sufficient timeframes for reactions and opinions from concerned individuals and organizations;
- Reassess all tax amnesty projects according to the conditions of massive corruption and embezzlement of public funds.

In reference to Article 9:

- Consider the possibility and the appropriateness of reviewing the regulatory framework to allow other individuals (non-participants) to challenge public procurement procedures;
- Ensure the implementation and the enforcement of the newly adopted rules by developing a strong and effective public procurement system;
- Take steps to address the irregularities and deficiencies identified as a result of audit missions in order to avoid future malfunctions in the public procurement system;
- Empower the supreme auditing institution to establish the audited entities' failure to execute the recommendations and requirements formulated in auditing reports, following completion of the preliminary procedure;
- Legislative regulation of reporting by audited entities on the fulfillment of requirements and implementation of recommendations by the Court of Accounts;
- Provide trainings on changes following the harmonization of the legislation for the contracting authorities and economic operators, as well as for the representatives of the PPA and of the National Agency for Settlement of Complaints;
- Organize information campaigns on the new rules on public procurement procedures;
- Take steps to address the irregularities and deficiencies identified as a result of audit missions in order to avoid future malfunctions in the management of public resources and of public patrimony;
- Ensure the implementation of recommendations concerning the measures required to address the deficiencies / drawbacks / irregularities identified during audit missions;
- Establish, at the legislative level, managerial accountability for irregularities and deficiencies identified by the Court of Accounts as a result of its audit missions.

In reference to Article 10:

- Inform the public at all stages of the decision-making process, including after the adoption of the decision, so that it is obvious to what extent the proposals and recommendations of the citizens, non-governmental organizations, other stakeholders were taken into account;
- Ensure a democratic process, decision-making transparency and broad public consultations, with sufficient time limits for reactions and opinions from concerned individuals and organizations;
- Undertake measures to build websites and update them with relevant information about the decision-making process, as a genuine and effective tool for dissemination of public information by LPAs;

- Ensure broad public access to draft decisions and related materials through their mandatory publication on the official website of the local public authority, utilizing electronic and e-government tools to comply with the legal requirements for transparency in decision-making process;
- Develop and approve internal rules for informing, consultation and participation in the process of drafting and adopting decisions, based on the legal provisions in force;
- Draw up and make public annual reports on transparency in decision-making;
- Set up control and sanction mechanisms for non-observance of decision-making transparency.

In reference to Article 11:

- Guarantee and fulfill the requirements for transparency in the judiciary;
- Provide appropriate and prompt responses to whistle-blowing in this sector; ensure the irreversibility of accountability and internal rehabilitation;
- Effectively enforce the legal provisions for the selection and the career of judges and prosecutors; ensure the rectification of evaluation and selection criteria; if they are not relevant and appropriate, motivate the decisions and permanently ensure the transparency at all stages and of all decisions;
- Strengthen the mechanisms for investigation and remediation of ethical misconduct in the judicial sector's institutions, ensure the effective information of judges and prosecutors about codes of conduct and professional ethics and supplement them with written guidance on ethical issues (including explanations, guidelines for their interpretation and concrete examples) and update them periodically.

In reference to Article 12:

- Set up partnerships between anti-corruption public authorities and the private sector;
- Develop and promote an information and awareness campaign on manifestations of corruption in private sector and associated risks;
- Develop a system for promoting business ethics and anti-corruption standards in the private sector;
- Encourage the private sector to adopt and implement codes of conduct; consider adapting the codes to the needs of small businesses.

In reference to Article 13:

- Develop a sufficient and efficient legal framework for the enforcement of the right to information;
- Develop the required tools and methodologies for the enforcement of the right to information;
- Prevent erroneous interpretations of the fundamental concepts governing the access to information;
- Ensure a balance between the right to personal data protection and the right to freedom of expression and information;
- Prevent misinterpretation of the right to personal data protection in relation to the observance of the right to information and to freedom of expression;

- Ensure that public authorities publish on their official websites all the information of public interest relevant to citizens' interests;
- Inform the officials responsible for the procedures of official information provision of the sanctions applied in cases of non-observance of the Law on access to information and of the rules for publication of the information on the websites of public institutions;
- Provide training to public officials in the field of access to information and on the effective application of the Law on access to information.

In reference to Article 14:

- Set clear procedures for risk identification and internal coordination – the financial institutions should allocate sufficient resources to promote anti-corruption and anti-money laundering programs;
- Apply appropriate preventive measures to identify the customers, especially the beneficiary owners;
- Identify and carefully manage relationships with politically exposed persons – by virtue of the status and of the political influence of some individuals, the risk of their involvement in money laundering is much higher;
- Exchange information with the concerned institutions in this field - being reporting entities, the financial institutions shall ensure clear and rapid procedures for dissemination of money laundering information to competent institutions;
- Facilitate cross-border cooperation - at the international level, States should ensure that agreements on rapid exchange of information and on the relationship between financial institutions are in place.

In reference to Chapter V of UNCAC:

- Align Law no.308 of 22.12.2017 on preventing and combating money laundering and terrorism financing to the provisions of the Moldovan legislation in force;
- Risk assessment should include the identification of the actual risk areas which are specific to the Republic of Moldova (but not presumptive and general), based on money laundering typologies already identified;
- Launch and strengthen mechanisms to ensure that State institutions (machinery) work in the public interest, not in the interest of politicians or private groups;
- Analyze the impact of the judiciary's involvement in money laundering, identify and implement solutions for avoidance of such situations in future;
- Effectively implement the national toolkit for asset recovery through international cooperation;
- Publish statistical data about the number of requests for legal assistance towards asset recovery submitted by other States and about those sent to other States by national authorities;
- Submit to Secretary-General of the United Nations the laws adopted by the Republic of Moldova on the enforcement of Article 55 of the Convention;
- Effectively implement the national confiscation toolkit in the framework of international cooperation;
- Publish statistical data on the number of legal assistance requests for purposes of confiscation received from other States and those submitted by national authorities to other States.
- Objectively and multilaterally assess the efficiency of SPCML activity and adopt measures to strengthen SPCML activity based on the results of the evaluation.

REFERENCES

1 The Review Mechanism was adopted in November 2009 by Resolution 3/1 in the framework of the 3rd Session of the Conference of State Parties (CoSP): https://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session3-resolutions.html

2 https://www.cna.md/public/files/raport_uncac_2016_03_08_moldova_final_country_report.pdf

3 http://uncaccoalition.org/resources/uncac-review-tools/guidelines_and_template_for_parallel_review_report.doc

4 The Self-Assessment Report was developed by the NAC in 2017 and submitted for consultation to the authorities and to civil society organizations, including to CAPC.

5 One of the proposed options shall be selected.

6 The latest anti-corruption policy document is the National Integrity and Anti-Corruption Strategy 2017-2020, adopted by the Parliament of the Republic of Moldova on March 30, 2017 by Parliament Decision no. 56: http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=370789

7 https://gov.md/sites/default/files/document/attachments/program_guvern-ro.pdf; https://gov.md/sites/default/files/document/attachments/program-guvernare-strelet-2015-2018.pdf; https://gov.md/sites/default/files/document/attachments/program_guvern-ro.pdf

8 Certain NGO-s invoked that: «*the inclusion in the NIAS of a pillar dedicated to civil society would have meant a "relativization" of the integrity of public authorities, giving rise to the idea of an additional task from the State in order to determine what kind of and how much integrity should be reported to the associative sector. In this context, despite the existence of a general agreement within civil society organizations about the importance of observing the principles of integrity and transparency, the integrity standards should however be subjected to an internal self-regulatory process within the associative sector in order not to undermine the fundamental constitutional principles regarding the freedom of association and freedom of opinion. Consequently, as a result of further consultations, the NAC stopped promoting Pillar VII*". "I http://api.md/news/view/ro-declaratie-cu-privire-la-deteriorarea-mediului-de-activitate-a-organizatiilor-societatii-civile-si-mass-mediei-in-republica-moldova-1445

9 Impact Assessment Study on the National Integrity and Anti-Corruption Strategy, conducted by CIVIS Center for Sociological, Political and Psychological Analysis and Investigations, commissioned by the United Nations Development Program (UNDP), within the project "Strengthening the Prevention and Analysis Functions of the National Anti-Corruption Center (NAC)", funded by Ministry of Foreign Affairs of Norway, Chișinău, 2018

10 See the NAC activity reports: https://www.cna.md/lib.php?l=ro&idc=143&t=/Studii-si-analize/Rapoarte-de-activitate& and the NIA activity reports: http://ani.md/ro/node/147

11 See the studies concerning the court judgments related to corruption offences (2013-2017); concerning the findings of anti-corruption review, concerning the assessment of the risks of corruption in public procurement system of the Republic of Moldova; concerning the mechanisms for asset recovery and confiscation in the Republic of Moldova. The studies can be accessed at: https://www.cna.md/lib.php?l=ro&idc=117&t=/Studii-si-analize/Studii-despre-coruptie&

12 Study on "Strengthening the Integrity System in the Republic of Moldova", Institute for Public Policy, Chișinău, 2017 http://ipp.md/wp-content/uploads/2017/10/Cadru_integritate.pdf, Report on the assessment of the implementation of anti-corruption toolkit in the judiciary http://capc.md/docs/Raport%20monitorizare%20SOROS%202012%20FINAL.pdf, the Center for Corruption Analysis and Prevention, Chișinău, 2017

13 Report on "Monitoring of anti-corruption policies in central public authorities", Transparency International Moldova, Center for Corruption Analysis and Prevention, Chișinău 2013, http://capc.md/docs/Raport%20monitorizare%20SOROS%202012%20FINAL.pdf

14 Law no. 180 of 22.10.2015 on the modification and amendment of certain legislative acts http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=361663

15 https://cancelaria.gov.md/sites/default/files/document/attachments/raport-l158-2016.pdf, Report on public office and the status of the civil servant for 2016, State Chancellery, Chișinău 2017

16 http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)027-e, JOINT OPINION ON THE LEGAL FRAMEWORK OF THE REPUBLIC OF MOLDOVA GOVERNING THE FUNDING OF POLITICAL PARTIES AND ELECTORAL CAMPAIGNS. Adopted by the Council for Democratic Elections at its 60th meeting (Venice, December 7, 2017)

17 https://promolex.md/wp-content/uploads/2018/06/Raport_finantarea_partidelor_RO_21.06.2018.pdf, Report on "Funding of political parties in the Republic of Moldova. Review of the year 2017", Chișinău, 2018

18 http://www.viitorul.org/files/library/Policy%20brief-finantare%20campanii-rom_0.pdf, Analytic note on "Problems and challenges related to funding of parliamentary election in the context of the modification of the electoral system", Chișinău, 2017

19 http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)027-e, JOINT OPINION ON THE LEGAL FRAMEWORK OF THE REPUBLIC OF MOLDOVA GOVERNING THE FUNDING OF POLITICAL PARTIES AND ELECTORAL CAMPAIGNS. Adopted by the Council for Democratic Elections at its 60th meeting (Venice, December 7, 2017)

20 http://www.moldovacurata.md/news/view/presedintele-judecatoriei-rascani-a-fost-iertat-de-cni-pentru-ca-si-a-promovat-cumnata-si-nepotul, Lilia Zaharia, President of the court of Râșcani exculpated by the NAC after having promoted her sister-in-law and nephew.

21 http://www.capc.md/files/RAPORT%20DE%20EVALUARE_FINAL_2.05.2017_versiune%20finala.pdf, Assessment report on the implementation of anti-corruption toolkit in the judiciary, CAPC, Chișinău, 2017

22 http://www.ani.md/ro/node/147, NIA, Reports

23 http://www.cnaa.md/files/theses/2017/51159/tatiana_mostovei_abstract.pdf, Mostovei Tatiana, The responsibility of the civil servant from the perspective of the deontology, Chișinău, 2017

24 Idem

25 https://www.cna.md/public/files/parts/Raport_de_monitorizare_i_evaluare_a_implementrii_SNIA_2017.pdf, Monitoring and Evaluation Report on the Implementation of the National Anti-Corruption and Integrity Strategy 2017-2020, Reporting period: the year 2017

26 https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/168075bb45, FOURTH EVALUATION ROUND, Corruption prevention in respect of members of Parliament, judges and prosecutors , EVALUATION REPORT, REPUBLIC OF MOLDOVA, Adopted by GRECO at its 72th Plenary Meeting (Strasbourg, 27 June – 1 July 2016)

27 https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c996a, Second evaluation round, Evaluation Report on Moldova, Adopted by GRECO at its 30th plenary meeting (Strasbourg, October 9-13, 2006)

28 http://rai-see.org/wp-content/uploads/2017/09/Protecting-Whistleblowers-in-SE-Europe.pdf, Protecting whistleblowers in Southeast Europe, a Review of policies, cases and initiatives

29 https://www.lhr.md/ro/2018/02/ctedo-guja-c-moldovei-nr-2-mimarea-executarii-unei-hotarari-provoaca-o-noua-condamnare/

30 http://ipp.md/wp-content/uploads/2017/10/Cadru_integritate.pdf, Strengthening the integrity system in the Republic of Moldova, Chișinău, 2017

31 http://www.realitatea.md/noi-angajati-in-cadrul-ani--primii-inspectori-de-integritate-au-depus-juramantul--foto-video-_78977.html, New staff within the NIA. The first integrity inspectors made an oath

32 http://www.capc.md/ro/events/355.html, Civil society organizations show concern about and condemn the adoption of the new draft Law (no. 284) on voluntary declaration and tax incentives

33 https://anticoruptie.md/ro/stiri/reprezentantul-fmi-in-republica-moldova-masurile-de-amnistie-a-capitalului-aprobate-de-parlament-vor-expune-sistemul-bugetar-fiscal-unor-riscuri-semnificative, IMF representative in the Republic of Moldova: „Capital amnesty measures approved by the Parliament will expose the budgetary-fiscal system to significant risks" https://www.mold-street.com/?go=news&n=7816, US Embassy statement on tax reform: Criminals should be punished, not rewarded

34 http://lex.justice.md/viewdoc.php?action=view&view=doc&id=368482&lang=2 Government Decree no. 1332/14.12.2016 on the approval of the Strategy for the development of public procurement system 2016-2020 and of the Action Plan for its implementation (Official Gazette no. 459-471/1442 of 23.12.2016)

35 http://www.md.undp.org/content/dam/moldova/docs/Publications/Deliverable%204%20-%20Final%20Assessment%20Report_Rom_for%20print.pdf, Report on the assessment of the risks of corruption in public procurement system of the Republic of Moldova

36 http://www.ccrm.md/storage/upload/reports/postari/168/pdf/859ba7124bd2f902a693a5bd67edce5c.pdf, Report on cases of suspected frauds and conflicts of interest detected by the Court of Account as a result of its audit missions throughout the year 2017, approved by the Decision of the Court of Accounts no. 70 of 19.12.2017

37 https://anticoruptie.md/ro/achizitii-publice/viceministra-finantelor-maria-caraus-retinuta-pentru-tentativa-de-trucare-a-unor-licitatii-publice, Deputy Minister of Finance, Maria Cărăuș, restrained for attempt of public auction fraud

38 https://anticoruptie.md/ro/achizitii-publice/licitatii-trucate-la-achizitionarea-panourilor-solare-patru-conducatori-retinuti-de-cna, Fraudulent auctions for the procurement of solar panels. Four managers restrained by the NAC.

39 https://anticoruptie.md/ro/achizitii-publice/automobile-de-peste-30-de-milioane-de-lei-procurate-in-aceasta-toamna-de-institutiile-de-stat-serviciul-vamal-a-cheltuit-20-de-milioane-pe-masini, Cars worth more than 30 million Lei purchased this autumn by State institutions. The Customs Service has spent 20 million on cars

40 https://anticoruptie.md/ro/achizitii-publice/primari-directori-de-gimnazii-si-oameni-de-afaceri-retinuti-in-dosarul-granturilor-din-fondul-de-eficienta-energetica, Mayors, school managers and business people restrained in the dossier of the grants form the Energy Efficiency Fund

41 http://www.ccrm.md/storage/upload/reports/postari/116/pdf/eee1f6e212f4f14541de255f960b37bc.pdf, Report on the management and utilization of public financial resources and public property, Yearly Report 2015, Chișinău, 2016

42 http://viitorul.org/files/Practici%20Detectare%20IDIS%202018%20ro%20WEB.pdf, Viorel Chivriga, Practices for detecting and counteracting anticompetitive practices in public procurement procedures, Chișinău, 2018

43 http://lex.justice.md/viewdoc.php?action=view&view=doc&id=368482&lang=2 Government Decree no. 1332/14.12.2016 on the approval of the Strategy for the Development of Public Procurement System 2016-2020 and of the Action Plan for its implementation (Official Gazette no. 459-471/1442 din 23.12.2016)

44 https://www.cna.md/public/files/parts/Raport_de_monitorizare_i_evaluare_a_implementrii_SNIA_2017.pdf, Monitoring and Evaluation Report on the Implementation of the National Integrity and Anti-Corruption Strategy 2017-2020, Reporting period: the year 2017

45 http://www.ccrm.md/storage/upload/reports/postari/166/pdf/408f1c0bd4d76dd699275f05adeb6ddf.pdf, Report on the management and utilization of public financial resources and public property, Yearly Report 2016, approved by Decision of the Court of Account no. 49 of 9th of October 2017

46 Idem

47 https://cancelaria.gov.md/sites/default/files/document/attachments/raport_td_28_05_2018_.pdf, Report on ensuring transparency in the decision-making process within the central public administration authorities 2017

48 https://www.cna.md/public/files/parts/Raport_de_monitorizare_i_evaluare_a_implementrii_SNIA_2017.pdf, Monitoring and Evaluation Report on the Implementation of the National Integrity and Anti-Corruption Strategy 2017-2020, Reporting period: the year 2017

49 http://www.e-democracy.md/files/td/transparenta-decizionala-parlament-2014.pdf, Decision-making transparency in the work of the Parliament: applicability and progress, Chișinău, 2014

50 https://www.cna.md/public/files/parts/Raport_de_monitorizare_i_evaluare_a_implementrii_SNIA_2017.pdf, Monitoring and Evaluation Report on the Implementation of the National Integrity and Anti-Corruption Strategy 2017-2020, Reporting period: the year 2017

51 http://www.e-democracy.md/files/td/transparenta-decizionala-parlament-2014.pdf, Decision-making transparency in the work of the Parliament: applicability and progress, Chișinău, 2014

52 http://capc.md/ro/events/355.html, Civil society organizations show concern about and condemn the adoption of the new draft Law (no. 284) on voluntary declaration and tax incentives

53 https://www.cna.md/public/files/parts/Raport_de_monitorizare_i_evaluare_a_implementrii_SNIA_2017.pdf, Monitoring and Evaluation Report on the Implementation of the National Integrity and Anti-Corruption Strategy 2017-2020, Reporting period: the year 2017

54 http://old.viitorul.org/public/files/Raport_-_Guvernare_deschisa_ro_WEB.pdf, Monitoring Report - Open Local Governance for Active and Informed Citizens, Chișinău, 2016

55 https://www.cna.md/public/files/parts/Raport_de_monitorizare_i_evaluare_a_implementrii_SNIA_2017.pdf, Monitoring and Evaluation Report on the Implementation of the National Integrity and Anti-Corruption Strategy 2017-2020, Reporting period: the year 2017

56 http://www.viitorul.org/files/3.pdf, Policy brief, Transparency of the decision-making process within the local public administration authorities. Difficulties and solutions.

57 National Concept of Mass-Media Development in the Republic of Moldova, approved on 14.06.2018

58 The Survey on „How the State restricts the right of the media to public information" was conducted in August 2017 by the representatives of the Center for Policies and Reforms.

59 http://ombudsman.md/sites/default/files/document/attachments/raport2017redfinal.pdf Report on the observance of human rights and freedoms in the Republic of Moldova in 2017, Chișinău, 2018

60 https://www.lhr.md/ro/2018/07/serviciului-fiscal-de-stat-obligat-sa-furnieze-informatii-de-interes-public-despre-veniturile-partidelor-politice/, State Tax Service compelled to provide information of public interest on the income of political parties

https://www.lhr.md/ro/2018/06/asociatia-juristii-pentru-drepturile-omului-castigat-procesul-prima-instanta-impotriva-consiliului-concurentei-privind-accesul-la-informatie/, Lawyers for Human Rights Association won the first instance trial against the Competition Council regarding the access to information

https://www.lhr.md/ro/2018/06/ministerul-justitiei-obligat-de-instanta-de-judecata-sa-furnizeze-informatii-de-interes-public/, The Ministry of Justice compelled by the court to provide information of public interest

https://www.lhr.md/ro/2018/06/radio-orhei-obtine-o-noua-victorie-contra-primariei-orhei-privind-accesul-la-informatie/, A new victory of Radio Orhei against Orhei City Hall in access to information

https://www.lhr.md/ro/2018/06/primaria-orhei-obligata-de-instanta-de-juecata-sa-ofere-informatii-de-interes-public-postului-radio-orhei/, Orhei City Hall compelled by the court to provide information of public interest to Radio Orhei

https://www.lhr.md/ro/2018/04/juristii-pentru-drepturile-omului-vs-serviciul-de-stat-de-arhiva-informatiile-de-interes-public-sunt-totusi-publice/, Lawyers for Human Rights vs. State Archive Service: Public interest information shall still be public

https://www.lhr.md/ro/2018/04/un-angajat-al-ministerului-educatiei-culturii-si-cercetarii-sanctionat-pentru-ingradirea-accesului-la-informatii-de-interes-public/, Employee of the Ministry of Education, Culture and Research sanctioned for restricting the access to information of public interest

https://www.lhr.md/ro/2018/02/juristii-pentru-drepturile-omului-castigat-un-nou-proces-privind-accesul-la-informatii-de-interes-public/, Lawyers for Human Rights Association won a new case on access to information of public interest

https://www.lhr.md/ro/2018/01/juristii-pentru-drepturile-omului-vs-cnam-verdict-pentru-accesul-public-la-informatii-despre-achizitiile-efectuate/,: Lawyers for Human Rights vs. National Health Insurance Company : VERDICT was given on public access to information about procurements

https://www.lhr.md/ro/2018/01/air-moldova-sanctionata-pentru-neprezentarea-informatiilor-de-interes-public/, Air Moldova sanctioned for failure to provide information of public interest

61 http://ombudsman.md/sites/default/files/document/attachments/raport2017redfinal.pdf Report on the observance of human rights and freedoms in the Republic of Moldova in 2017, Chișinău, 2018

62 http://ombudsman.md/sites/default/files/document/attachments/raport2017redfinal.pdf Report on the observance of human rights and freedoms in the Republic of Moldova in 2017, Chișinău, 2018

63 https://www.cna.md/public/files/parts/Raport_de_monitorizare_i_evaluare_a_implementrii_SNIA_2017.pdf, Monitoring and Evaluation Report on the Implementation of the National Integrity and Anti-Corruption Strategy 2017-2020, Reporting period: the year 2017

64 Verification of holders and candidates for the position of judge; polygraph test; declaration and control of assets and personal interests; testing the professional integrity, including declaration of undue influences; declaration of prohibited communications; declaration of gifts; whistle-blowing; anti-corruption telephone lines; random allocation of cases in the courts.

65 See Decision of the Superior Council of Magistracy no. 229/12 of May 8, 2018 on the approval of the Regulations for the activity of the Commission for Ethics and Professional Conduct of Judges; http://csm.md/files/Acte_normative/Legislatia/Interne/2018/Regulament_Com_etrica.pdf

66 The press has written that "The SCM decided to set up a Commission for Ethics and Professional Conduct of Judges. Among its members, there are judges who hold impressive properties and even a "judge of hell", as were called those judges who, in April 2009, went to police commissariats to order preventive detention against the restrained protesters".; http://agora.md/stiri/47535/doc--cine-sunt-membrii-comisiei-de-etica-si-conduita-profesionala-a-judecatorilor--printre-acestia-se-numara-si-un-judecator-din-iad

67 Evaluation report: "Corruption prevention in respect of members of Parliament, judges and prosecutors", adopted by GRECO at its 72th Plenary Meeting (Strasbourg, 27 June – 1 July 2016) https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/168075bb45

68 The research analyzes the evolution/involution (mostly throughout the year 2017) of the regulatory and institutional framework designed to ensure integrity in the judiciary, identifies the problems that hamper the good operation, the integrity and the trust in the judiciary.

69 Public opinion poll on the judicial system in Moldova commissioned for the Superior Council of Magistracy, conducted with the financial support of the USAID Open Justice Program, in partnership with the EU project "Enhancing

the efficiency, responsibility and transparency of courts in Moldova" (ATRECO), by Magenta Consulting JSC. The poll was intended to investigate the perception of the Moldovan population of the efficiency and transparency of the judicial system in Moldova, the reform of the judiciary; to collect information on the use of technology in the courts; to assess public access to information about the performance of the courts and judges.

70 Analytic study on the deficiencies of the system for random allocation of cases "Integrated Case Management System (PIGD)", NAC, 2016; https://www.cna.md/public/files/studiu_pigd.pdf; Report on the assessment of the implementation of anti-corruption instruments in the judiciary http://capc.md/docs/Raport%20monitorizare%20SOROS%202012%20FINAL.pdf, Center for Corruption Analysis and Prevention, Chișinău, 2017

71 A Lost Year: Transparency, Access to Information and Personal Data in the Judicial Sector of the Republic of Moldova, Policy brief, Center for Policies and Reforms, 2018, https://cpr.md/2018/07/25/un-an-pierdut-transparenta-accesul-la-informatii-si-datele-cu-caracter-personal-in-sectorul-justitiei-din-republica-moldova-2/

72 The statement issued by civil society in December 2016 disapproved the way how the candidate for the position of Prosecutor General was invested. The statement pointed out that "The appointment of the candidate for the position of Prosecutor General in such a hurry seriously damages the trust in prosecution service and fuels the suspicion that it was done with a hidden purpose. We request President of the Republic of Moldova to make public the information regarding the verification of the integrity of the holder of this public dignity function made by the Intelligence and Security Service. We call on the Prosecutor General to come up with public explanations in order to exclude any doubt about the legality of the provenance of his properties and the actions linked to the tragic events of April 2009 in which he was involved. We request the National Integrity Authority to carry out, as soon as it becomes operational, the verification of the Prosecutor General's property".; http://www.transparency.md/2016/12/09/declaratie-reprezentantii-societatii-civile-condamna-modul-in-care-a-fost-investit-procurorul-general/

73 The study conducted by IDIS "Viitorul" in 2017 with the purpose to make a review of the situation at that time, to identify the trends of the phenomenon of corruption and its impact on business environment in the Republic of Moldova, as well as to support private sector in its endeavors to be honest and to participate as active subjects in identifying and implementing solutions, http://www.viitorul.org/files/library/Raport%20Coruptie%20Biz%20rom.pdf

74 The report was developed in 2016 with the purpose to assess the compliance of the national anti-corruption system in the Republic of Moldova, including the legislative and regulatory acts and national policies, with the main international standards for fighting corruption and improving integrity management in private sector, http://www.md.undp.org/content/dam/moldova/docs/Publications/Raport%20de%20evaluare%20NAC.pdf

75 Monitoring Report on NIAS Implementation in 2017; https://www.cna.md/public/files/parts/Raport_de_monitorizare_i_evaluare_a_implementrii_SNIA_2017.pdf

76 Law 180/2018 on voluntary declaration and tax incentives, Law 179/2018 on the modification of certain legislative acts (including the Criminal Code and the Code of Criminal Procedure)

77 http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=374388

78 The respective documents can be accessed at http://spcsb.gov.md/ro/law_national

79 What is money laundering phenomenon and how does it affects each of us; https://www.expert-grup.org/ro/biblioteca/item/1614-sistemul-financiar-la-punct-ce-este-si-cum-ne-afecteaza-pe-fiecare-din-noi-fenomenul-splaraii-banilor&category=180

80 Law no. 61 of 31.05.2018 on the modification and amendment of certain legislative acts http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=376756

81 What is money laundering phenomenon and how does it affects each of us; https://www.expert-grup.org/ro/biblioteca/item/1614-sistemul-financiar-la-punct-ce-este-si-cum-ne-afecteaza-pe-fiecare-din-noi-fenomenul-splaraii-banilor&category=180

82 Law no. 180/2018 on voluntary declaration and tax incentives http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=376854

83 During the period 2010-2014, USD 20 billion were transferred from Russia by the means of dozens of off-shore companies, banks, fake loans. Over 20 judges from 15 Moldovan courts were involved in the "Russian laundromat". They had the role of legalizing the money by issuing, at the request of a chain of off-shore companies, more than 50 court orders for joint collection of fictitious debts amounting to about USD 20 billion https://www.rise.md/articol/operatiunea-ruseasca-the-laundromat/?lang=ru

84 At the end of 2015, three banks in the Republic of Moldova - Banca de Economii (BEM), Banca Sociala (BS) and Unibank (UB), which held altogether about 35 percent of the assets of the entire national banking system, were on the verge of liquidation. The decline in the assets of the three banks started in 2012, when the shareholders of BEM, BS and UB had changed, and the ownership of the banks came to a number of individuals and entities that apparently had no connection to each other. Shortly, the three banks undertook a series of suspicious transactions, deprived of any economic rationality, that caused the significant deterioration of banks' balance sheets, making them unviable. The new owners set the ground for the significant increase in the liquidities of the three banks, and, as a result, the possibility of giving loans. That fact artificially increased the lending capacity of BEM, BS and UB. Thus, before disappearing (in just two days), the billion was granted as loans (that proved to be non-performing) to companies belonging to off-shore owners who, obviously, were not interested in reimbursing the loans. A total amount of USD 767 million disappeared ultimately from the banking system, the National Bank (NBM) having found a financial hole estimated to USD 1 billion, what seriously affected the banking system. Neither the NBM, nor other oversight institutions timely reacted to the obscure changes in the shareholder structure at BEM, BS and UB. In July and September 2014, the banking and financial legislation was changed, being set legal conditions for the provision of emergency loans by the NBM to commercial banks in difficulty, with Government's guarantees. In November 2014, at a secret meeting, the Government decided to allocate 9.6 billion Lei from the NBM to the three banks (BEM, Social Bank and Unibank).

https://crimemoldova.com/news/history-of-Independence/furtul-miliardului-fila-neagr-din-istoria-celor-25-ani-de-independen-/; https://adevarul.ro/moldova/politica/house-of-cards-furtul-miliardului-republica-moldova-afacere-stat-1_5a781b6bdf52022f75358baa/index.html

85 Law no. 308 of 22.12.2017 on the Prevention and Combating of Money Laundering and terrorism financing, Art. 6: "....

(8) The Service for the Prevention and Combating of Money Laundering, jointly with the authorities entitled to oversee the reporting entities, the law enforcement bodies and other competent institutions, shall organize, conduct and update, at least every three years, an assessment of the risks of money laundering and terrorism financing at the national level, aiming at:

a) optimizing the regulatory, institutional and policy framework in the field of prevention and combating of money laundering and terrorism financing;

b) effective allocation of the material, financial, human resources by the Service for the Prevention and Combating of Money Laundering, the authorities entitled to oversee the reporting entities, the law enforcement bodies and other competent institutions;

c) informing public authorities, relevant associations and reporting entities about the risks of money laundering and terrorism financing identified at the national level.

(9) The assessment of the risks of money laundering and terrorism financing at the national level shall be recorded in an evaluation report, which shall be approved by an order of the Director of the Service for the Prevention and Combating of Money Laundering. The report shall be published on the official website of the Service for the Prevention and Combating of Money Laundering, except the information containing a State secret and the commercial, banking, tax, professional information or personal data».

86 http://spcsb.gov.md/sites/default/files/documents/files/SPCSB%202017%20RAPORT%20ANUAL_0.pdf

87 It was published in the News section of the SPCML site. http://spcsb.cna.md/ro/press-release/raportul-public-despre-rezultatele-evaluarii-na%C5%A3ionale-riscurilor-%C3%AEn-domeniul-sp%C4%83l%C4%83rii

88 https://www.expert-grup.org/media/k2/attachments/Proiectul_de_lege_cu_privire_la_prevenirea_ui_combatarea_splllrii_banilor.pdf

89 http://www.capc.md/ro/events/355.html

90 http://parlament.md/ProcesulLegislativ/Proiectedeactelegislatve/tabid/61/LegislativId/4329/language/en-US/Default.aspx

91 http://procuratura.md/file/Strategie%20Publica.pdf

92 In order to inform the public about the process of recovery of the money stolen from Banca de Economii, Banca Sociala and Unibank, starting on June 20, 2016, a banner "Recovery of Embezzled Assets" was placed on the official website of the Ministry of Finance https://gov.md/ro/content/recuperarea-activelor-fraudate

93 https://watch.cpr.md/strategie-de-recuperare-sau-strategie-de-convingere/

Freedom House

Freedom House is a nonprofit, nonpartisan organization that supports democratic change, monitors freedom, and advocates for democracy and human rights.

1850 M Street NW, 11th Floor
Washington, DC 20036

111 John Street
New York, NY 10038

www.freedomhouse.org
Facebook.com/FreedomHouseDC
@FreedomHouse
202.296.5101
info@freedomhouse.org