Baseline Measurement Report:

The Principles of Public Administration

MOLDOVA

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Authorised for publication by Karen Hill, Head of the SIGMA Programme

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TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS 2

OVERVIEW 4

STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM 7

1. State of play and main developments: 2014-2015 7

2. Analysis 8

POLICY DEVELOPMENT AND CO-ORDINATION 19

1. State of play and main developments: 2014-2015 19

2. Analysis 20

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT 41

1. State of play and main developments: 2014-2015 41

2. Analysis 43

ACCOUNTABILITY 62

1. State of play and main developments: 2014-2015 62

2. Analysis 63

SERVICE DELIVERY 74

1. State of play and main developments: 2014-2015 74

2. Analysis 75

PUBLIC FINANCIAL MANAGEMENT 86

1. State of play and main developments: 2014-2015 86

2. Analysis 88

LIST OF ABBREVIATIONS AND ACRONYMS

AA/ DCFTA	Association Agreement including a Deep and Comprehensive Free Trade Area
CHU	Central Harmonisation Unit
CLH	Centre for Legal Harmonisation
CNP	Council for National Participation
CoA	Court of Accounts
CoG	centre of government
COSO	Committee of Sponsoring Organisations
CSA	Complaint Settlement Agency
CPA	central public administration
CSL	Civil Service Law
DGPCEACPAR	Directorate General for Policy Co-ordination, External Assistance and Central Public Administration Reform
DRCPA	Reform of Central Public Administration
EC	European Commission
EI	European integration
EU	European Union
FMC	financial management and control
GAPl	Government Activity Plan
GAPr	Government Activity Program
GAWP	Government Annual Work Plan
GDP	gross domestic product
HDMF	Harmonisation Division in the Ministry of Finance
HRMIS	Human Resource Management Information System
IA	internal audit
ICMS	Integrated Case Management System
ICSP	Interministerial Committee on Strategic Planning
IMF	International Monetary Fund
ISSAI	International Standards of Supreme Audit Institutions
IT	information technology
IPA	Instrument for Pre-accession Assistance
LAI	Law on Access to Information
LAL	Law on Administrative Litigation
LCSPS	Law on Civil Servants' Payroll System
LPA	local public administration
LSCA	Law on Specialized Central Administration

MFAEI	Ministry of Foreign Affairs and European Integration
MoE	Ministry of Economy
MoF	Ministry of Finance
MoJ	Ministry of Justice
MTBF	medium-term budgetary framework
NICS	National Internal Control Standards
NPIAA	National Action Plan for the Implementation of the EU-Moldova Association Agreement
NPLA	National Plan for Legal Approximation
OBL	Organic Budget Law
OECD	Organisation for Economic Co-operation and Development
PAR	public administration reform
PFM	public financial management
PFPR	Public Finance Policy Reform
PIFC	public internal financial control
PPA	Public Procurement Agency
PPL	Public Procurement Law
PPP	public-private partnership(s)
RIA	Regulatory Impact Assessment
RoP	rules of procedure
SAI	Supreme Audit Institution
STA	Single Treasury Account
SOE	state-owned enterprise

OVERVIEW

In 2014 SIGMA, in co-operation with the European Commission (EC), developed the Principles of Public Administration[1]. The Principles cover six areas: strategic framework for public administration reform (PAR), policy development and co-ordination, public service and human resource development, accountability, service delivery and public financial management (PFM), including public procurement and external audit. They define what good governance entails in practice and outline the main requirements to be followed by countries during the EU integration process. The Principles also feature a monitoring framework enabling regular analysis of progress in applying the Principles and setting country benchmarks.

The Principles of Public Administration were developed in the context of the "Enlargement Strategy and Main Challenges 2014-2015" adopted by the EC in October 2014. The Principles and their analytical framework were used by SIGMA in the EU Enlargement countries in the Western Balkans as well as Turkey, in the first half of 2015, to prepare comprehensive reports analysing and assessing the progress of PAR in those countries[2].

On 27 June 2014, Moldova and the European Union signed an Association Agreement, including a Deep and Comprehensive Free Trade Area (AA/DCFTA). By signing the Association Agreement, Moldova committed to developing democratic institutions in accordance with European Union standards and rules.

In 2015 the EC and the Government of the Republic of Moldova asked SIGMA to carry out a review of public administration in Moldova, using the methodological framework of the Principles of Public Administration.

This Country Report sets baseline values for the indicators in the monitoring framework and provides analysis on where the country stands in relation to the Principles. It covers the period of January 2014 to December 2015. The analytical report is complemented by the Methodological Annex, which defines the indicators included in the monitoring framework.

General state of play in Moldova

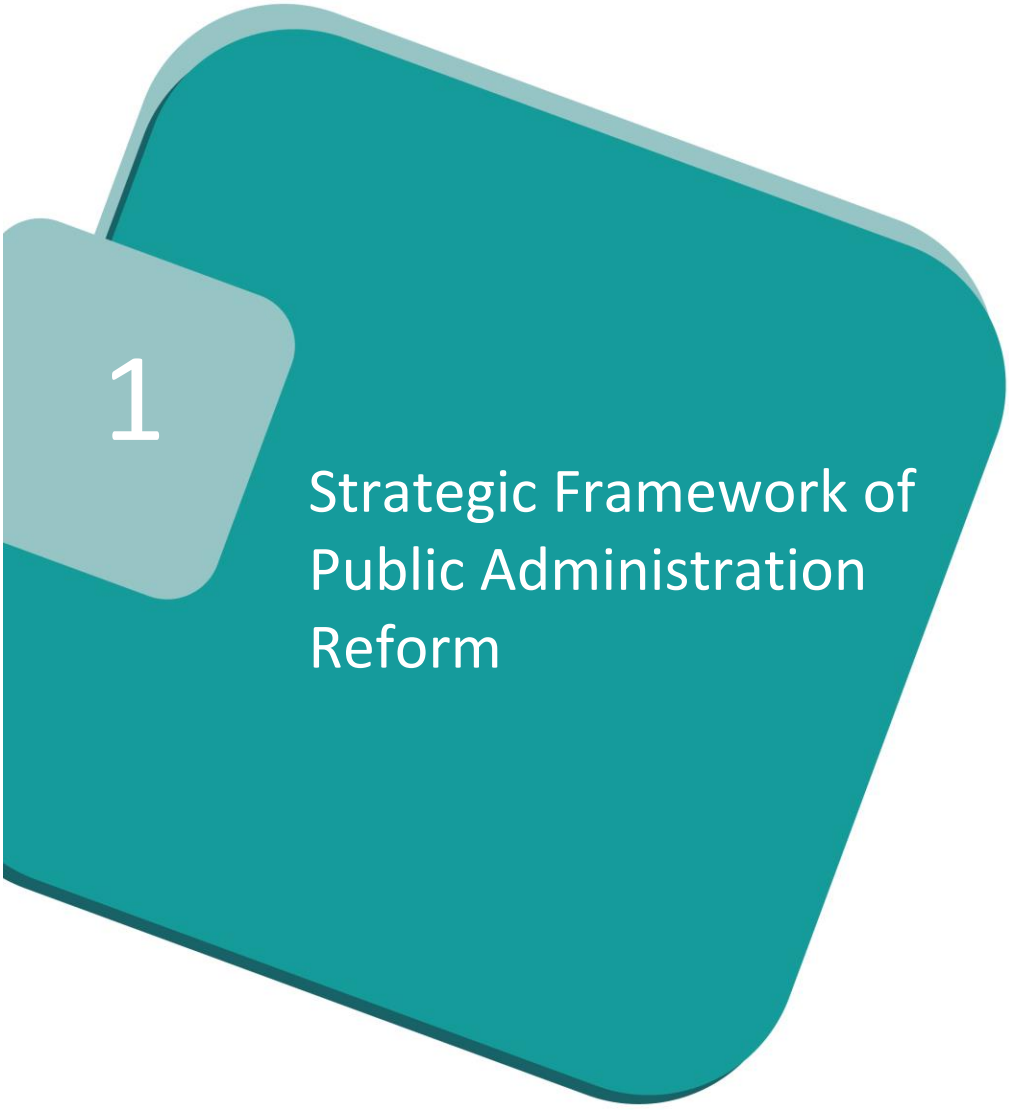
The AA/DCFTA signed by Moldova and the EU provides a framework for the gradual integration of Moldova into the EU. Among other undertakings, Moldova committed to pursue reforms of the public administration to develop, consolidate and increase the stability and effectiveness of democratic institutions and the rule of law, to ensure respect for human rights and fundamental freedoms, to ensure effectiveness in the fight against corruption and to contribute to building an accountable, efficient, transparent and professional civil service. The AA/DCFTA and its protocols and annexes outline several detailed reforms that Moldova has to undertake to meet EU standards.

To meet its obligation under the AA/DCFTA and successfully implement the necessary reforms, Moldova needs a capable and well-functioning public administration. Some important building blocks of good public administration are already in place in Moldova, but several serious challenges remain, in particular concerning the implementation of policies and laws which have already been adopted.

1 SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris.

2 SIGMA (2015), *Baseline Measurement Reports*, OECD Publishing, Paris.

The Government of Moldova acknowledges PAR as a priority in central policy documents, although not in a coherent way. The Government's focus is on improving service delivery and PFM. The policy framework is fragmented, as the PAR agenda is implemented through seven sector planning documents in the areas of service delivery, e-government, PFM, regulatory reform and civil society development. The overarching PAR Strategy expired in 2013 and a new PAR planning document has not been prepared yet. The legal framework for policy development and co-ordination, and for European integration, is in place but is fragmented.



1 Strategic Framework of Public Administration Reform

STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-2015

1.1. State of play

The Government of Moldova[3] acknowledges public administration reform (PAR) as a priority in central policy documents, although not in a coherent way. The Government's focus is on improving service delivery and public financial management (PFM). The policy framework is fragmented, as the PAR agenda is implemented through seven sector planning documents in the areas of service delivery, e-government, PFM, regulatory reform and civil society development. The overarching PAR Strategy expired in 2013 and a new PAR planning document has not been prepared yet. The financial sustainability of PAR is not ensured as the costs of reforms are not calculated.

The implementation of sector planning documents covering the PAR agenda is monitored. However, fragmented processes do not ensure provision of comprehensive information and analysis of progress in PAR areas. The reporting and accountability requirements are not always followed in practice: annual reports were prepared for five out of seven strategies[4], but only three out of seven reports were submitted for discussion and/or adoption to the co-ordination bodies envisaged in the respective strategies[5].

The PAR management and co-ordination framework at the political level has recently been established, but it has not been applied. One leading institution is responsible for PAR co-ordination; however, its functions are very broadly defined and it has not been formally designated as a secretariat for PAR co-ordination bodies. The staff of the institution in charge of PAR co-ordination do not undergo regular PAR-related training, and the sustainability of the PAR co-ordination capacity is not ensured because of high staff turnover.

1.2. Main developments

A newly adopted Government Activity Program for 2015-2018[6] features good governance and PFM as priorities. The Government Action Plan 2015-2016[7], adopted in September 2015, also foresees a number of measures in the areas of good governance and PFM. Further implementation of these measures is in question, however, due to the current political instability.

In October 2015, the Government adopted a decision on the establishment of the National Council for PAR[8]. The mandate of the PAR Council is to co-ordinate PAR agenda implementation at the political level; however, the Council is not yet operational.

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3 The analysis refers to the situation in Moldova at the end of 2015: the SIGMA fact-finding mission to the country took place in November 2015 and the report was written in December 2015.

4 Consolidated annual reports were prepared for the Regulatory Reform Strategy, Digital Moldova 2020 Strategy, Public Financial Management Strategy, Civil Society Development Strategy and the Program for Development of Public Internal Financial Control.

5 Report on the Program for Development of PIFC was submitted to the Government meeting; Report on PFM Strategy was submitted to the Parliament, European Union Delegation and the Court of Accounts of Moldova; Report on Civil Society Development Strategy was submitted to the Parliament.

6 Government of Moldova (2015), Programme of Activity of the Government of the Republic of Moldova 2015-2018, Government of Republic of Moldova.

7 Decision No. 680 on Government Action Plan 2015-2016, 30 September 2015.

8 Decision No. 716 on the Establishment of the National Council for PAR, 12 October 2015.

2. ANALYSIS

This analysis covers the five Principles for the strategic framework of PAR area, grouped under two key requirements[9]. Under each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover an analysis of the Government's central planning, as well as specific PAR planning document(s), including their links to Government financial planning documents. The Principles also examine the set-up and organisation of the PAR management and co-ordination mechanisms both at both the political and administrative levels.

2.1. Key requirement: The leadership of public administration reform is established and the strategic framework provides the basis for implementing prioritised and sequenced reform activities aligned with the Government's financial circumstances.

Baseline values

The leadership and strategic framework of PAR is examined through eight different indicators which aim to describe the country's general approach to defining reform objectives and actions, the comprehensiveness of the scope of PAR, links to financial planning and the rate of implementation. The PAR reporting and monitoring system is also assessed. Two out of the eight indicators are qualitative, while the rest are quantitative, based on the analysis of data and documents provided by the institutions.

In Moldova, PAR is formally recognised as a priority, although prioritisation is not fully coherent across the central planning documents. There are seven PAR-related sector planning documents[10], which substantially cover only two PAR pillars out of five – service delivery and PFM. The monitoring and reporting of PAR objectives is realised through separate channels, which means that systematic analysis of progress is not ensured. Neither is the financial sustainability of reforms, as the costs of PAR implementation are not provided in the planning documents.

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of PAR central planning document(s) is complete.	2014	1
	2	Extent to which a comprehensive PAR reporting and monitoring system is in place	2015	1
Quantitative	1	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	2015	60%
	1	Share of public administration development activities and reforms from all activities in PAR planning documents.	2015	85%
	2	Annual implementation backlog of public administration development activities and reforms[11].	2014	44%

9 SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 8-17.

10 Programme of Reforming Public Services for 2014-2016; Regulatory Reform Strategy; Strategic Program for Governance Technological Modernisation (E-Transformation); National Strategy for Information Society Development "Digital Moldova 2020"; Strategy for Developing Civil Society; PFM Strategy; and Program for Development of PIFC.

11 Indicator assesses the implementation rate of public administration development activities and reforms within the particular year.

	2	Percentage of fulfilled PAR objectives.	2014	17%
	3	Share of resourced and costed activities related to PAR measures.	2015	11%
	3	Ratio between planned PAR Instrument for Pre-accession Assistance (IPA) funding in the IPA sectoral programme and the national planning documents.	2015	0%

Analysis of Principles

Principle 1: The Government has developed and enacted an effective public administration reform agenda which addresses key challenges.

The central planning documents of the Government of Moldova – the Activity Program of the Government of the Republic of Moldova 2015-2018[12], the National Development Strategy "Moldova 2020"[13], the Medium-term Budgetary Framework (MTBF) 2015-2017[14], the revised 2014-2016 National Action Plan for the Implementation of the EU-Moldova Association Agreement[15] and the Government Annual Work Plan 2015-2016 – recognise the need for PAR. However, the focus of the PAR agenda is not fully coherent within the documents listed. Service delivery and PFM are covered in most central planning documents. Policy making and co-ordination, accountability and public service are featured in the Activity Program of the Government and its Work Plan, and in the EU-Moldova Association Agreement. PAR priorities in the National Development Strategy "Moldova 2020" and the MTBF 2015-2017 are limited to service delivery and PFM only. Accountability is not substantially covered in any of the central planning documents. For these reasons, the ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently is 60%.

There is no overarching PAR planning document. The previous central PAR strategy expired in 2013 and a new PAR planning document has not been adopted since. At present, the PAR agenda is planned and implemented through seven sector planning documents, which set objectives and indicators in selected PAR areas: the Programme of Reforming Public Services for 2014-2016[16]; the Regulatory Reform Strategy 2013-2020[17]; the Strategic Program for Governance Technological Modernisation (E-Transformation)[18]; the National Strategy for Information Society Development "Digital Moldova 2020"[19]; the Strategy for Developing Civil Society 2012-2015[20]; the Public Financial Management (PFM) Strategy 2013-2020[21]; and the Program for Development of Public Internal Financial Control (PIFC) for 2014-2017[22]. All the documents have corresponding Action Plans, which include over 700 activities

12 Government of Moldova (2015), Programme of Activity of the Government of the Republic of Moldova 2015-2018, Government of Republic of Moldova.

13 Law No. 166 on Moldova 2020, National Strategy of Development: 8 Decisions for Economic Growth and Reducing Level of Poverty, 11 July 2012.

14 Interministerial Strategic Planning Committee Decision No. 2505-06 on MTBF 2015-2017, 15 July 2014.

15 Government Decision No. 713 on National Action Plan for the Implementation of the Moldova–European Union Association Agreement 2014-2016, 15 October 2015.

16 Government Decision No. 122 on Programme of Reforming Public Services for 2014-2016, 18 February 2014.

17 Government Decision No. 1021 on Regulatory Reform Strategy 2013-2020, 16 December 2013.

18 Government Decision No. 710 on Strategic Program for Governance Technological Modernisation (E-Transformation), 20 September 2011.

19 Government Decision No. 857 on National Strategy for Information Society Development "Digital Moldova 2020", 31 October 2013.

20 Law No. 205 on Strategy for Developing Civil Society 2012-2015, 28 September 2012.

21 Government Decision No. 573 on PFM Strategy, 6 August 2013.

22 Government Decision No. 1041 on Program for Development of PIFC for 2014-2017, 20 December 2013.

with the responsible institutions and implementation deadlines. In total, 85% of the activities can be regarded as development activities or reforms, while the rest are process-oriented or very general in nature.

While all seven sector planning documents provide an analysis, a set of objectives, indicators and specific activities, some key PAR areas are not covered by any planning document: a strategic framework for PAR management and co-ordination; policy making and co-ordination (except for regulatory reform and participation of society in decision making); public service and accountability. All seven sector planning documents refer to only three PAR pillars – policy making and co-ordination (only the regulatory reform aspect), service delivery and PFM. Moreover, the sectoral strategies do not provide any information on how they are linked to one another even where there are several planning documents for one PAR pillar, for example two planning documents for PFM and three documents for service delivery. Therefore, the value for the indicator on the extent to which the scope of PAR planning documents is complete is 1.

While the Government's commitment to pursue PAR objectives is set out in the key central planning documents, it is not done in a coherent way. The strategic framework for PAR is fragmented and does not cover most reform areas.

Principle 2: Public administration reform is purposefully implemented; reform outcome targets are set and regularly monitored.

In the absence of an overarching PAR planning document, the implementation of PAR-related objectives is monitored through the seven sector planning documents. Each document defines its own set of objectives, but there is no unified practice in using performance indicators. The PFM Strategy and PIFC Program do not identify impact or outcome level indicators to monitor implementation of strategy-level objectives. The Action Plan for implementation of PFM Strategy 2013-2020 for 2015[23] and the PIFC Program Action Plan 2014-2017[24] identify indicators which are linked directly to activities and used for annual monitoring and reporting. Targets for indicators are set in four out of seven sector planning documents and only three out of these link indicators to objectives.

Figure 1. Use of performance indicators in sector planning documents

No	Document	Indicators	Targets	Link to objectives
1.	Programme of Reforming Public Services	YES	YES	YES
2.	E-Transformation Strategy	YES	YES	NO
3.	Regulatory Reform Strategy	YES	YES	YES
4.	Digital Moldova 2020 Strategy	YES	YES	NO
5.	Civil Society Development Strategy	YES	NO	YES
6.	PFM Strategy	NO	NO	NO
7.	PIFC Programme	NO	NO	NO

Sources: Programme of Reforming Public Services 2014-2016; Regulatory Reform Strategy; National Strategy for Information Society Development "Digital Moldova 2020"; Strategic Program for Governance Technological Modernisation (E-Transformation); Civil Society Development Strategy; Public Financial Management Strategy and Program for Development of Public Internal Financial Control.

[23] Ministry of Finance Order No. 32 on Action Plan for Implementation of the PFM Strategy 2013-2020 for 2015, 12 March 2015.

[24] Government Decision No. 1041 on Annex to Program for Development of PIFC for 2014-2017, 20 December 2013.

Each sector planning document defines basic monitoring and reporting arrangements[25]. However, the monitoring and reporting requirements are not always followed in practice. Despite the Government's priority to modernise public services, consolidated annual reports for 2014 were not drafted for the implementation of the Programme of Reforming Public Services 2014-2016 and for the Strategic Program for Governance Technological Modernisation (E-Transformation). The annual reports on the Digital Moldova 2020 Strategy and the Civil Society Development Strategy for 2014 provide only summarised information on activities. It is also foreseen that implementation and monitoring of the Programme of Reforming Public Services, [26] Strategic Program for Governance Technological Modernisation (E-Transformation)[27] and National Strategy for Information Society Development "Digital Moldova 2020" [28] is to be carried out by the Council for Coordinators of Electronic Transformation (E-Transformation Council) [29]. However, no evidence was provided by the administration that the E-Transformation Council met to discuss progress on these three planning documents in 2015.

No analysis has been undertaken by the State Chancellery to establish whether PAR-related policy objectives or reform targets set in these documents have been achieved. The annual reports mainly provide information on the implementation of activities. For this reason, the value for the indicator on the percentage of fulfilled PAR objectives is set based on the analysis of implemented activities rather than analytical assessment of achievement of objectives. Based on the annual reports of the Regulatory Reform Strategy, PFM Strategy and PIFC Program, the percentage of fulfilled PAR objectives is set at 17% and the backlog of public administration development activities and reforms in 2014 at 44%.

The main shortcomings in the monitoring and reporting framework are the lack of a comprehensive overview on the implementation of PAR objectives and a focus on implementation of activities instead of reform outputs and outcomes. Therefore, the value for the indicator on the monitoring and reporting framework is 1.

PAR agenda implementation is lacking a comprehensive overview, as monitoring and reporting is not in place for several PAR areas. Information and data on PAR is not regularly provided to decision makers. The available reports focus on implementation of activities rather than on analysis of the achievement of objectives and reform targets.

Principle 3: Financial sustainability of public administration reform is ensured.

Sector planning documents related to the PAR agenda provide very limited information on the financial resources required for implementation of activities. Efforts to cost strategies are evidenced in only three out of seven strategies – the Civil Society Development Strategy, the Digital Moldova 2020 Strategy and the Regulatory Reform Strategy, however, in the last two cases, less than one-third of activities are costed. The Civil Society Development Strategy has a 42% share of costed activities. Therefore, the value of the indicator for the share of resourced and costed activities related to PAR measures in the planning documents is set at 11%.

[25] All documents have a separate section which determines the frequency of reporting and responsible institutions.

[26] Government Decision No. 122 on Programme of Reforming Public Services for 2014-2016, 18 February 2014, p. 16.

[27] Government Decision No. 710 on Strategic Program for Governance Technological Modernisation (E-Transformation), 20 September 2011, pp. 32-33.

[28] Government Decision No. 857 on National Strategy for Information Society Development "Digital Moldova 2020", 31 October 2013, pp. 22-23.

[29] Government Decision No. 222 on Establishment of Council of Co-ordinators for Electronic Modernisation, 1 April 2011.

Figure 2. Share of costed activities in PAR planning documents (%)

Sources: Programme of Reforming Public Services 2014-2016; Regulatory Reform Strategy; National Strategy for Information Society Development "Digital Moldova 2020"; Strategic Program for Governance Technological Modernisation (E-Transformation); Civil Society Development Strategy; Public Financial Management Strategy and Program for Development of Public Internal Financial Control.

The MTBF 2015-2017[30] highlights two PAR-related priorities – service delivery and PFM – however, it gives no indication of the approximate amount of resources available to implement these priorities over the medium term. The financing trends in the MTBF are broken down according to seven broad sectors which do not identify financial resources for PAR areas such as reform of service delivery, civil service or PFM. Financing in the annual budget is indicated on an institution-by-institution basis, which makes it impossible to distinguish between PAR-related and other mandated activities. Therefore, neither the PAR planning documents nor the MTBF or annual budgets provide information on the resources required for implementation of public administration reforms from the national budget or international donors. The EU Financing Agreement "Support to Public Finance Policy Reforms in Moldova" [31] foresees EUR 37 million in funding but there is a lack of cost estimations in national planning documents. Therefore, the value for the indicator measuring the ratio between planned PAR Instrument for Pre-accession Assistance (IPA) funding in the IPA sectoral programme and the national planning documents is 0%.

The financial sustainability of PAR is not ensured. There is limited costing of PAR-related activities to determine the funding sources and the financial resources required, and it is not consistently applied. There is no available evidence to indicate that the required resources will be allocated to PAR areas in the medium term, as the MTBF does not provide planned allocations for PAR objectives.

30 Interministerial Strategic Planning Committee Decision No. 2505-06 on MTBF 2015-2017, 15 July 2014, p.56.

31 Financing Agreement Sector Reform Contract Special Conditions ENV2014/033-684, Support to Public Finance Policy Reforms in Moldova (PFPR).

Key recommendations

Short-term (1-2 years)

1) As soon as the new Government is formed, the State Chancellery should initiate the preparation of a comprehensive new PAR Strategy and a review of other PAR-related sectoral planning documents. The purpose of the review will be to streamline all the planning documents in the area of PAR by either:
    a. establishing proper linkages among PAR-related documents; or
    b. merging some of the documents, taking into account their validity and the pillars of the new PAR strategy. For example, the Programme of Reforming Public Services will expire in 2016 and a decision will have to be made whether or not to prepare a new document, or integrate it into the new PAR strategy or merge it with the E-Transformation Strategy or other.
2) The State Chancellery should ensure that the new PAR Strategy includes:
    a. PAR objectives supported with measurable performance indicators, including baseline values and targets;
    b. a section with clear management, co-ordination, monitoring, reporting and evaluation arrangements;
    c. a section on links to PAR-related sectoral planning documents;
    d. an action plan with implementation deadlines, responsible institutions and costs.
3) The State Chancellery should ensure that institutions in charge of PAR-related sectoral planning documents (Ministry of Economy [MoE], Ministry of Finance [MoF], Ministry of Information Technology and Communications, E-Government Centre, State Chancellery) comply with monitoring and reporting requirements defined in Government Decision No. 33 on the Rules for Development and Minimum Requirements for Policy Documents, as well as in the PAR-related planning documents. In addition, the State Chancellery should ensure that the Council for PAR is provided with timely and quality information in order to perform regular monitoring of implementation of PAR components[32]. The actions taken by the State Chancellery could be a combination of reviews of compliance with monitoring requirements by institutions, scrutiny of reports, changes to minimum requirements, training and/ or guidance.
4) The MoF, together with the State Chancellery, should ensure that PAR priorities are reflected in the MTBF and that financial resources in the medium term are planned and can be clearly determined from the MTBF.

2.2. Key requirement: Public administration reform management enables guiding and steering reforms, determines the accountability for implementation and ensures the professional administration needed for reform implementation.

Baseline values

The functioning of the public administration reform management and co-ordination mechanisms is examined through five indicators, one of which is qualitative. These provide information on the operation of the mechanisms and also address the capacity of the leading PAR unit to support the functioning of these mechanisms.

In Moldova, the PAR management and co-ordination mechanism at the political level has recently been established. However, due to political instability it has not been functioning in practice. There is one

[32] Government Decision No. 716 on the Establishment of the National Council for PAR, 12 October 2015.

leading institution responsible for PAR agenda management; however, the PAR co-ordination functions of this institution are not clearly defined. The same applies to the responsibilities of the involved institutions. Overall, the PAR agenda is managed in a fragmented way by several institutions in charge of numerous sectoral planning documents.

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which accountability over PAR functions is established.	2015	2
Quantitative	4	Frequency of PAR-related political discussions.	2015	2[33]
	4	Implementation rate of decisions made by political and administrative-level PAR co-ordination forums.	2015	33%
	5	Annual staff turnover in leading PAR unit.	2015	35%
	5	Proportion of leading PAR unit staff that has undertaken at least two PAR-related trainings during the last year.	2015	18%

Analysis of Principles

Principle 4: Public administration reform has robust and functioning co-ordination structures at both the political and administrative level to steer and manage the reform design and implementation process.

Four main political-level decision making forums exist to discuss the PAR agenda: Government meetings, the recently established National Council for PAR,[34] the Inter-Ministerial Committee on Strategic Planning[35], and the Government Commission for EU Integration[36]. In 2015, progress on the preparation of the PAR strategic document was discussed in the Government Commission for EU Integration. Furthermore, an annual report on the implementation of the PIFC Program was submitted to Government, though not formally adopted or commented upon. The recently established National Council for PAR has not yet met to discuss PAR issues.

In addition to these political-level forums, the implementation of sectoral planning documents related to the PAR agenda is supposed to be discussed by sector-level bodies, namely the Economic Council[37], the PIFC Council[38], and the E-Transformation Council. However, there is no record that these bodies convened in either 2014 or 2015 to discuss the progress in PAR-related areas. Therefore, the indicator for the frequency of PAR-related political discussions in 2015 is set at 2. The low number of discussions by the political-level decision making bodies can be explained partially by the general elections which took place in November 2014, and the formation of two Governments in the period February to July

33 This value shows the total number of PAR-related discussions held during 2015. It is a quantitative, not qualitative, indicator and therefore should not be regarded as an indicator for scale.

34 Government Decision No. 716 on the Establishment of the National Council for PAR, 12 October 2015.

35 Government Decision No. 838 on the Establishment of the Inter-Ministerial Committee on Strategic Planning, 9 July 2008. Article 4 states that "The Committee co-ordinates and monitors activities of the Government and its committees in developing and implementing … the process of modernisation of central public administration…"

36 Government Decision No. 679 on the Appointment of the Composition of the Government Commission for EU Integration, 13 November 2009.

37 Government Decision No. 1004 on the Establishment of the Economic Council, 28 December 2012.

38 Minister of Finance Regulation No. 114 on the Functioning of the PIFC Council, 10 December 2012.

2015. This had an adverse impact not only on discussions at the political level but also on preparation of the new planning document for PAR.

One of the mandates of the newly established PAR Council is to "co-ordinate and monitor the activities of the advisory bodies (committees, commissions) established for the implementation of certain components of the reform of public administration"[39]. However, there is no mechanism to ensure co-ordination and monitoring of the activities of such bodies.

At the technical level, co-ordination of the PAR agenda is not clearly described or detailed. The Council for PAR, to facilitate its work, has the right to establish any working or consultative bodies (such as a committee, commission or working group) for the components of PAR, with the respective secretariats[40]. However, there are no formal provisions foreseeing the establishment or appointment of the technical secretariat for the Council itself. The State Chancellery has a broadly defined mandate to co-ordinate and monitor PAR activities but its functions and responsibilities in relation to the PAR Council are not specified in detail[41]. The Secretary of the Council for PAR is the Deputy Secretary General of the Government[42].

At the technical level, the EU-Moldova Sub-Committee on Economic and other Sector Cooperation[43] met in 2015 to discuss PFM and PAR.

It should be noted that three PAR-related decisions[44] were taken during 2015 by political- and administrative-level forums, of which only one was implemented, thus warranting a 33% value for the indicator on the implementation rate of decisions made by political- and administrative-level PAR co-ordination forums.

Overall, there are no robust and functioning PAR co-ordination structures. A recently established Council for PAR has not been operational and remains at risk due to political instability. The functioning and responsibilities of the State Chancellery as a technical secretariat to the PAR Council are not properly described or clearly assigned.

Principle 5: One leading institution has responsibility and capacity to manage the reform process; involved institutions have clear accountability and reform implementation capacity.

One lead institution, the State Chancellery of the Republic of Moldova, has been assigned the responsibility "to ensure co-ordination and monitoring of activities within the framework of central public administration reform"[45]. According to the Regulation of the Secretary General[46], the Directorate General for Policy Co-ordination, External Assistance and Central Public Administration Reform (DGPCEACPAR) has the mandate to co-ordinate the implementation of PAR. The Regulation also defines the core functions of the DGPCEACPAR in relation to PAR. These include the elaboration of

39 Government Decision No. 716 on the Establishment of the National Council for PAR, 12 October 2015, Article 6.

40 Ibid., Article 20.

41 Government Decision No. 657 on the Organisation and Functioning of the State Chancellery, 6 November 2009, Article 7f.

42 Government Decision No. 716 on the Establishment of the National Council for PAR, 12 October 2015, Article 10.

43 EU-Republic of Moldova Association Council Decision No. 1/2014 adopting its Rules of Procedure and those of the Association Committee and of Sub-committees [2015/671], 16 December 2014.

44 The conclusion of the Government Commission for EU Integration: "The institutions concerned shall endeavour to redress the situation and resolve the issues raised by the EU in terms of harmonising legislation under Annexes of the AA and actual implementation of the Agreement, in particular: approval of the Roadmap on the reform of public administration." The conclusions of the EU-Moldova Sub-Committee on Economic and other Sector Cooperation: "The State Chancellery proposes that this Strategy should be approved by Parliament, as it involves local governments" and "that a Public Administration Reform Committee should be created to bring this topic to the attention of the Prime Minister and the Government Cabinet during the next five years."

45 Government Decision No. 657 on the Organisation and Functioning of the State Chancellery, 6 November 2009, Article 7f.

46 Secretary General of the Government Regulation No. 505 on the Organisation and Functioning of the Directorate General for Policy Co-ordination, External Assistance and Central Public Administration Reform, 2013.

legislation concerning the modernisation and efficient management of the central public administration system; development and oversight of the implementation of the policy to improve public services; provision of specialised expertise to administration authorities in central government on implementation of reform measures; development of legislation in the field of public and civil service; co-ordination of the professional development of civil servants; and other functions in the civil service area.[47] Nevertheless, responsibility to manage the PAR process is not assigned to any of the Directorates of the DGCEACPAR, nor distributed among the Directorates or at the individual civil servant level[48]. As a consequence, the responsibility and accountability for co-ordination and management of PAR is established only at the level of the entire Directorate General. Moreover, the Director of the DGPCEACPAR is accountable to the Secretary General of the Government, who is a member of the Council for PAR, but is not the Secretary of the Council for PAR with whom the technical-level body has to work[49].

The functions and responsibilities of the other involved institutions and their relationships with the State Chancellery are not defined. The institutions in charge of sector planning documents[50] have established separate accountability mechanisms which do not support a single accountability framework or an exchange of information on progress against the PAR agenda. The leading institution and other involved institutions do not have formal mechanisms to exchange information on PAR-related issues, and existing co-ordination structures do not function in practice. For these reasons, the accountability and steering of PAR is fragmented, and the responsibilities of involved institutions are unclear. Therefore, the value of the indicator on accountability over PAR functions is 2.

There are 35 members of staff in the DGPCEACPAR. In 2015, only 18% of staff members had taken part in at least two training sessions in PAR-related topics[51]. Further, the sustainability of PAR co-ordination competencies within the Directorate General is difficult to ensure because the staff turnover rate has increased from 20% in 2013, to 21% in 2014 and 35% in 2015. At the same time, the number of staff in the DGPCEACPAR increased from 30 in 2013 to 34 in 2014 and then remained constant in 2015.

The DGPCEACPAR of the State Chancellery has a general mandate to co-ordinate PAR, however the functions and accountability for PAR are not further assigned to respective Directorates or civil servants. The officials of the Directorate General do not undergo regular PAR-related trainings. The responsibilities of the involved institutions are not clearly established and the PAR agenda is co-ordinated through separate mechanisms.

Key recommendations

Short-term (1-2 years)

1) The State Chancellery should develop, and the Government of the Republic of Moldova should adopt, a regulation on the establishment of an inter-ministerial working group at the administrative level to ensure the co-ordination of the implementation of PAR-related activities, to review and discuss progress in PAR areas, to exchange information among institutions in charge of sectoral planning documents in the area of PAR, and to provide recommendations for the future planning of the PAR agenda. The working group would facilitate better co-ordination of PAR given that these are several PAR-related sectoral planning documents.

47 Ibid.

48 According to the information provided by the State Chancellery, two civil servants – the Head of the Directorate for Central PAR and the senior consultant of the same Directorate – have formally assigned functions related to PAR co-ordination; however, these functions are not performed in practice.

49 The Secretary and Member of the Council for PAR is the Deputy Secretary General of the Government.

50 This refers to the following strategic documents: Programme of Reforming Public Services, E-Transformation Strategy, Regulatory Reform Strategy, Digital Moldova 2020, Civil Society Strategy, PFM Strategy and PIFC Program.

51 In addition, participation in PAR-related training is unevenly distributed among the staff of the different Directorates of DGPCEACPAR. In the Directorate of Central PAR, two-thirds of the total staff took part in at least two such trainings in 2015, while no other staff of the Directorate General participated in at least two PAR-related trainings.

2) The State Chancellery, in co-operation with the MoE, the Ministry of Information Technology and Communications, the MoF and the E-Government Centre, should review the mandates and rules of procedure of respective co-ordination bodies[52] to streamline their work with the newly established PAR Council.

3) The State Chancellery should review the Government Decision on the Establishment of the National Council for PAR to:

    a. Update the composition of the Council for PAR (i.e. reconsider the Secretary of the Council for PAR to align with accountability lines in the State Chancellery and update personal appointments);

    b. Foresee the appointment of the DGPCEACPAR as the Technical Secretariat of the Council for PAR.

4) To ensure responsibility and accountability over PAR, the Government of the Republic of Moldova and the State Chancellery should further clarify, detail and expand the functions, tasks and responsibilities of the DGPCEACPAR as the leading institution and Secretariat of the PAR Council in relation to the preparation, co-ordination and monitoring of the PAR agenda and planning documents. Responsibilities for the co-ordination and overall leadership of the PAR agenda should be clearly attributed to one Division or assigned among the Divisions and civil servants of the DGPCEACPAR. These clarifications should be included in the Government Regulation on the Organisation and Functioning of the State Chancellery and in the Decision of the Secretary General of the Government on the Organisation and Functioning of the DGPCEACPAR.

Medium-term (3-5 years)

5) The State Chancellery should take the necessary measures to retain members of staff and avoid any increase in the staff turnover rate of the DGPCEACPAR, in order to strengthen and sustain the PAR co-ordination capacity.

[52] These bodies include the E-Transformation Council, the Economic Council and the PIFC Council.

2
Policy Development and Co-ordination

POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-2015

1.1. State of play

The legal framework for policy development and co-ordination and for European integration (EI) is in place but is fragmented. Key laws and government decisions generally set clear procedures for both the functioning of the centre of government (CoG) and policy development in line ministries. However, some challenges remain with their implementation, both at the level of the CoG and in ministries, to convert the output of the structures and procedures into high-quality policy and legislative proposals.

Steering of policy content is not fully ensured and the central planning system is not fully developed. Sectoral strategies are not formulated under uniform rules, costing of reforms is limited to indicating additional resource needs and no alignment with the medium-term budgetary framework (MTBF) is ensured. The monitoring system to provide regular information about the work of the Government is not fully in place. The quality of evidence-based policy development through assessment of impacts is not fully consistent, as the analysis is still weak. Nevertheless, the transparency of the Government concerning its daily work, as well as the system of public consultation, is commendable.

1.2. Main developments

Based on the Government Activity Program (GAPr) for 2015-2018[53], a new Government Action Plan (GAPl) for 2015-2016[54] was adopted in September 2015. However, the Government was dismissed by Parliament on 29 October 2015.

After signing the European Union-Moldova Association Agreement[55] in June 2014, the first National Action Plan for the Implementation of the EU-Moldova Association Agreement 2014-2016 (NPIAA) entered into force in October 2014[56]. The first Progress Report on the Implementation of the EU-Moldova Association Agreement 1 September 2014-1 September 2015 has been adopted and a revised NPIAA entered into force[57] in October 2015.

[53] Government of Moldova, Program of Activity of the Government of the Republic of Moldova 2015-2018.

[54] Government Decision No. 680 on GAPl 2015-2016, 20 September 2015.

[55] *Official Journal of the European Union* L 260, Vol. 57, 30 August 2014.

[56] Government Decision No. 808, 7 October 2014.

[57] Government Decision No. 713, 15 October 2015.

2. ANALYSIS

The analysis covers the 12 Principles of the policy development and co-ordination area, grouped under four key requirements[58]. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover the whole policy cycle and address the functioning of the CoG; policy planning, co-ordination and monitoring; Government decision making; and development of policy and legislation. The Principles also cover the necessary arrangements for EI throughout the policy cycle.

2.1. Key requirement: Centre of government institutions fulfil all functions critical to a well-organised, consistent and competent policy making system.

Baseline values

The functioning of the CoG is examined through two qualitative indicators. One covers all nine critical functions as defined in the Principles of Public Administration, while the other is a specific indicator to analyse how key EI functions are implemented by the administration. These qualitative indicators analyse the establishment of the functions and how they are implemented.

In Moldova, all critical CoG functions are established. The value below for this indicator reflects partial implementation. Taking into account the stage at which the country stands in the EI process as an Eastern Partnership country (it is not in the process of accession negotiations), the value illustrates that the EI functions are established, but there remain implementation challenges in *acquis communautaire* transposition and its planning.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Proportion of critical CoG functions that are fulfilled by the institutions.	2015	4
	2	EI functions are fulfilled by the institutions.	2015	3

Analysis of Principles

Principle 1: Centre of government institutions fulfil all functions critical to a well-organised, consistent and competent policy making system.

The institutions fulfilling CoG functions are:

- State Chancellery, which prepares Government meetings; ensures legal consistency[59]; co-ordinates preparation of the Government's strategic priorities and work programme, co-ordinates the content of policy proposals; co-ordinates the Government's communication activities; monitors the Government's performance and handles relations between the Government and other parts of the State;
- Ministry of Finance (MoF), which prepares the MTBF and the annual budget, and provides opinions on fiscal sustainability of policy proposals of ministries;
- Ministry of Foreign Affairs and European Integration (MFAEI), which co-ordinates EI affairs;
- Centre for Legal Harmonisation (CLH) under the Ministry of Justice (MoJ), which ensures compatibility of national legislation with the *acquis communautaire*.

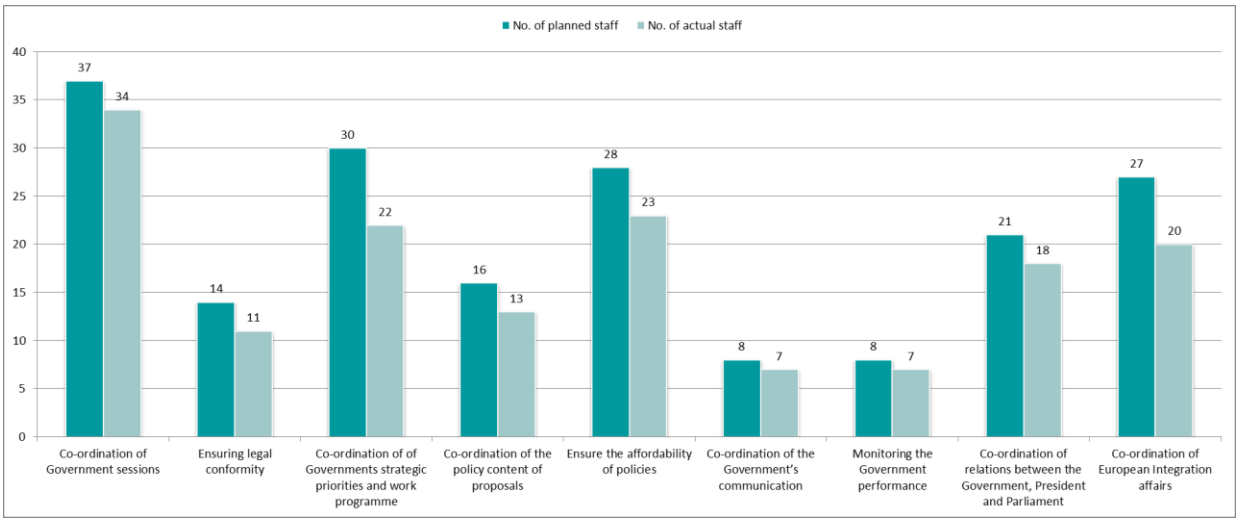
[58] SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 18-40.

[59] This function is shared with the Ministry of Justice (MoJ), as it has to provide a legal review for all draft laws as well as check all normative acts (tertiary regulation) of public authorities. The State Chancellery reviews all Government legislative acts and also all items from the perspective of legislative technique.

The main documents comprising the legal framework for the functioning of the CoG are: the Constitution[60]; the Law on the Government[61]; the Law on Central Specialised Public Administration[62]; the Law on the Acts of Government and Other Central and Local Public Administration Authorities[63]; and the Government Decision on the Approval of Government Decisions[64]. Overall, the roles of the different CoG organisations are well established, and responsibilities are defined and in most cases clearly separated[65]. However, procedures for planning the work of the Government and monitoring its performance are missing.

Internal co-ordination within the different responsible units of the State Chancellery is in place[66], but wider co-ordination between all CoG organisations is missing. All institutions fulfilling CoG functions are sufficiently staffed; actual staffing is over 80% on average.

Figure 1. Staff allocation to critical CoG functions as of 1 July 2015



Sources: State Chancellery, Ministry of Foreign Affairs and European Integration, Ministry of Finance.

Seven out of the nine critical CoG functions defined by the Principles[67] are established and implemented daily at the expected level. Implementation challenges remain in co-ordination of the Government's strategic priorities and work programme, and in monitoring the Government's performance. Therefore, the baseline value for the indicator measuring the proportion of critical centre of government functions that are fulfilled by the institutions is 4.

All CoG functions critical to a well-organised, consistent and competent policy making system are established. Implementation challenges remain in the preparation of the Government's strategic priorities and work programme and monitoring its performance. Regular co-operation and co-ordination between all CoG institutions is lacking.

60 Constitution of 29 July 1994, Official Gazette No. 1, 12 August 1994.

61 Law No. 64 on the Government, 31 May 1990, Articles 58, 20,25,26,30 and 31, Official Gazette Nos. 131-133/2002, 26 September 2002.

62 Law No. 98 on Central Specialised Public Administration, 4 May 2012, Articles 5,16, Official Gazette Nos. 160-164/2012, 3 August 2012.

63 Law No. 317, 18 July 2003, Article 28, 68,75, Official Gazette Nos. 208-210/2003, 3 October 2003.

64 Government Decision No. 34, 17 January 2001.

65 An exemption is the role for scrutinising drafts of legal harmonisation with the EU *acquis*, in which both the MFAEI and the CLH play a role which is not clearly defined in regulation.

66 Through informal channels and by internal procedures, ensuring that the State Chancellery provides one unified opinion on policy drafts of ministries.

67 SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 21.

Principle 2: Clear horizontal procedures for governing national European integration process are established and enforced under the co-ordination of the responsible body.

Out of the six key functions related to EI, the overall EI co-ordination function is established in the MFAEI and led by a Deputy Prime Minister: the Minister of the MFAEI. The MFAEI is also responsible for the planning and monitoring of EI[68]. The CLH under the MoJ is responsible for the co-ordination of *acquis* transposition, while the State Chancellery co-ordinates EU assistance[69]. The CLH elaborates annual plans to harmonise national legislation with community legislation, monitors its implementation and also ensures compatibility of national legislation with the *acquis*. Nevertheless, the MFAEI is also positioned to review EI-related policy drafts, hence it can also scrutinise their quality with regards to harmonisation with the *acquis*. In addition, the MFAEI is responsible for communicating transposition activities to the EU institutions. This duality also leads to parallel monitoring and reporting. Responsibility over accession negotiations is not established in Moldova, given its status in the integration process. Implementation challenges remain regarding the quality of planning for EI, as the NPIAA does not include the financial implications and costing of reforms. Therefore, the baseline value for the indicator on fulfilment of EI functions by the institutions is 3.

Of the maximum 27 potential staff of the MFAEI dealing with EI issues, 20 positions (74%) had been filled, while at the CLH, only 11 out of 22 (50%) had been filled as of 1 July 2015. There are five persons responsible for EU assistance issues within the Division for Policy Coordination and Strategic Planning, and the Monitoring and Evaluation Division of the State Chancellery.

The EI co-ordination functions are established and the necessary institutional and legal framework is developed; however, co-ordination roles in the transposition process are not fully clarified. Challenges remain in planning, as costing of EI-related reforms is not in place.

Key recommendations

Short-term (1-2 years)

1) The Government should adopt comprehensive rules of procedure (RoP) to:
    a. ensure that the functioning of the policy-making system is co-ordinated through unified, written and aligned procedures to avoid duplication of functions;
    b. clearly define all institutions fulfilling CoG functions, their roles, responsibilities and co-ordination, and ensure procedures of the Government decision-making process are clear;
    c. ensure that development and planning of Government strategic priorities and work programmes, as well as their monitoring, are systematically embedded in the overall planning system.
2) The MFAEI – in alignment with the professional direction and advice of the MoF – should strengthen its EI planning function by including costing of reforms.
3) The Government should further clarify the roles and responsibilities for co-ordination of legal harmonisation with the *acquis* between the MFAEI and the CLH.

Medium-term (3-5 years)

4) The Government should develop and fully utilise a system of regular co-ordination forum(s) for the different CoG institutions to ensure that the CoG position, with regards to various aspects of the

[68] Government Decision No. 630 on Acceptance of Regulations on Organisation and Functioning of Ministry of Foreign Affairs and European Integration, Its Structure and Numerical Limitations of Central Apparatus, 22 August 2011, Article 700, Official Gazette Nos. 139-145/2011, 26 August 2011.

[69] Government Decision No. 657 on Regulations of Organisation and Functioning of the State Chancellery, its Structure and Numerical Limitations, 6 November 2009, Article 724, Official Gazette No. 162/2009, 10 November 2009.

policy-making process, is consolidated and communicated to initiators of policy proposals in a consistent manner.

2.2. Key requirement: Policy planning is harmonised, aligned with the Government's financial circumstances and ensures the Government is able to achieve its objectives.

Baseline values

The harmonisation of policy planning is measured through six indicators covering the annual implementation backlog of planned commitments; the annual backlog in developing sector strategies; the link between funds estimated in sector strategies and those taken up in the MTBF; the completeness of financial estimates; the annual backlog of EI-related commitments; and the extent to which achieved outcomes are reported.

While the country has a system of medium-term planning, the values of the indicators show that there remain challenges in the areas of costing of policies, consistent implementation of plans, and monitoring outcomes of policy actions.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Completeness of financial estimates in sector strategies[70].	2015	2
	5	Extent to which reporting provides information on the outcomes achieved.	2015	3
Quantitative	3	Annual implementation backlog of planned commitments in the central planning document(s).	2014	12%
	3	Annual backlog in developing sectoral strategies.	2014	29%
	3	Ratio between total funds estimated in the sectoral strategies and total funding identified for the corresponding sectors within the MTBF[71].	2014	0%
	4	Annual implementation backlog of EI-related commitments.	2014	67%

Analysis of Principles

Principle 3: Harmonised medium-term policy planning, with clear whole-of-government objectives, exists and is aligned with the financial circumstances of the Government; sector policies meet the Government objectives and are consistent with the medium-term budgetary framework.

The medium-term planning system in the country is established by: the Law on the Government[72]; the Law on Acts of the Government and Other Central and Local Public Administration Authorities[73]; the

70 A sample of five recently adopted sector strategies was used.

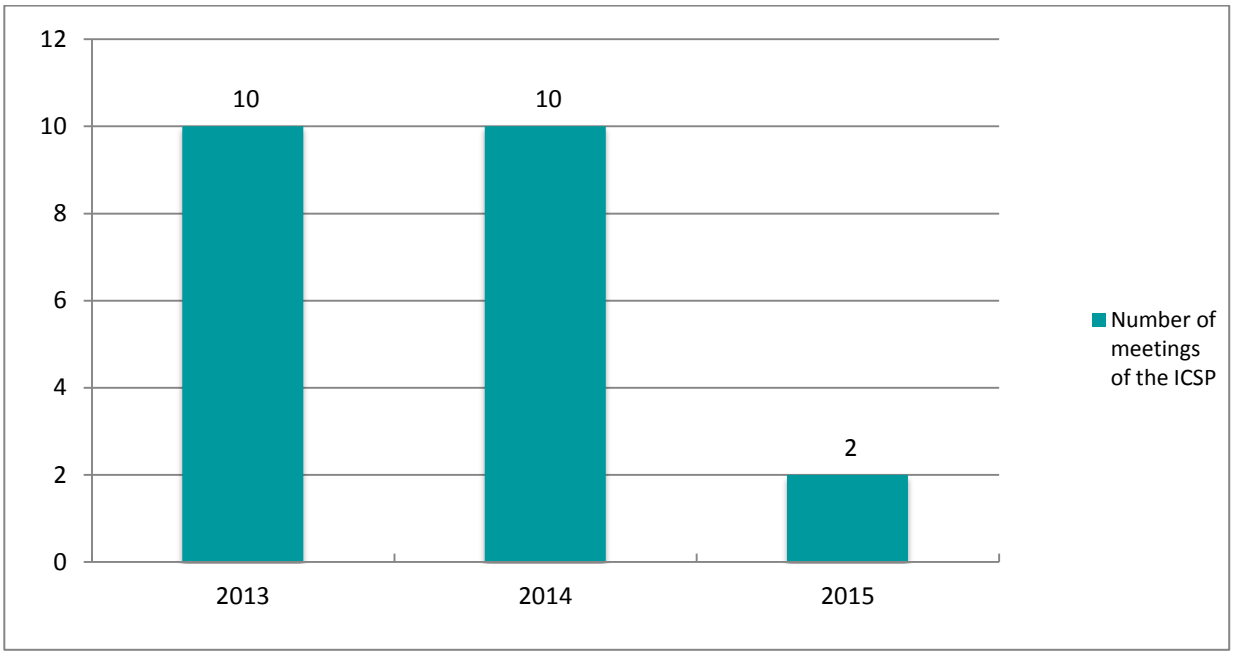
71 The ratio is calculated as a percentage (0% for minimum concurrence and 100% for maximum concurrence), illustrating the difference in planned funding in the last five strategies adopted and the MTBF. The outcome value of the indicator is the average of the five cases. In the event that it is not possible to undertake the calculation due to a lack of financial data in the MTBF and/or in all or some sector strategies, the ratio is determined as 0%.

72 Law No. 64, 31 May 1990, Articles 3 and 4.

Government Decision on the Approval of Government Decisions[74]; the Rules of Development and Unified Requirements for Policy Documents[75]; and the Law on Public Finance and Fiscal Responsibility[76].

An Interministerial Committee on Strategic Planning (ICSP) has been established to co-ordinate strategic planning, with special emphasis on the development and monitoring of implementation of the GAPr[77], the National Development Strategy, and the Medium-term Expenditure Framework[78]. The ICSP is a consultative and decision-making body, chaired by the Prime Minister, with members of the Government and representatives of the State Chancellery. The ICSP has regular meetings, but in 2015 it had only two due to the political situation.

Figure 2. Annual number of meetings of the Interministerial Committee on Strategic Planning



Source: State Chancellery.

The central planning documents of the Government of Moldova are the Activity Program of the Government of the Republic of Moldova 2015-2018[79], the National Development Strategy "Moldova 2020"[80], the MTBF 2015-2017[81], the revised 2014-2016 NPIAA[82] and the Government Annual Work Plan (GAWP) 2015-2016[83].

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73 Law No. 317, 18 July 2003, Article 28. Although the Law stipulates that the Government is to develop an annual legislative programme, this requirement is not adhered to in practice.

74 Government Decision No. 34, 17 January 2001, Articles 3-5.

75 Government Decision No. 33 on Rules of Development and Unified Requirements for Policy Documents, 11 January 2007, Article 44, Official Gazette Nos. 6-9/2007, 19 January 2007.

76 Law No. 181 on Public Finance and Fiscal Responsibility, 25 July 2014, Article 519, Official Gazette Nos. 223-230/2014, 8 August 2014.

77 The Law on the Government stipulates that candidates for the position of Prime Minister propose the GAPr, the multi-annual priority list of activities of the future Government, to the Parliament.

78 Government Decision No. 838 on Creation of Interministerial Committee on Strategic Planning, July 2008, Article 8489, Official Gazette Nos. 127-130/2008, 18 July 2008.

79 Government of Moldova, Program of Activity of the Government of the Republic of Moldova 2015-2018.

80 Law No. 166 on National Development Strategy, Moldova 2020: SEVEN solutions for economic growth and poverty reduction, 11 July 2012.

81 Approved by Interministerial Committee on Strategic Planning Decision No. 2505-06, 15 July 2014.

82 Government Decision No. 713, 15 October 2015.

83 Government Decision No. 680 on Approval of GAPl 2015-2016, 30 September 2015.

No detailed regulation exists on the structure, content and other requirements for central planning documents, except for the MTBF[84]. The Rules of Development and Unified Requirements for Policy Documents[85] set the typology of policy documents (concepts, strategies, programmes and plans), and list the required elements of various policy documents, including the need for plans to have objectives, actions with deadlines, defined responsibilities for implementation, performance indicators, costings and procedures for reporting and monitoring. Nevertheless, these requirements are very general and lack specific methodology, especially for the costing of policies and clarity regarding linkages and hierarchy among different policy documents.

The elaboration process of the Annual Plan of the Government is foreseen in the Regulations of the Government of the Republic of Moldova[86], which state that – in accordance with the GAPr – the Government will plan its work for the whole term and for the next year. Nevertheless, more exact requirements regarding the details of annual planning are not elaborated, resulting in varying timeframes, structures and details of actions within different GAPIs[87].

The baseline value of the indicator on the annual implementation backlog of planned commitments in central planning documents was calculated by comparing the GAPI for 2014[88] to that of 2015-2016[89]. Out of the 512 numbered activities of a total of 662 activities planned for 2014, 361 can be regarded as actions with tangible outcome[90]. Forty-four such activities were carried forward to 2015-2016, generating a 12% backlog. The development of 7 out of 24 sectoral strategies planned in 2014 was carried forward to 2015-2016, leading to a 29% backlog[91]. Nevertheless, these numbers should be considered with caution, as the GAPI 2015-2016 was adopted in late 2015 by a different Government and on the basis of a new GAPr, meaning that for most of 2015 there was no GAPI. This situation led to a severe difference in planning and a lack of continuity of issues to be included in consecutive plans. The last publicly available report, on the implementation of the GAPr for 2013-2014[92], indicates that the implementation rate for this period was around 60%.

The ratio of total funds estimated in sectoral strategies to total funding identified for corresponding sectors in the MTBF is calculated as 0%, because four out of five recently adopted sector strategies[93]

84 Law No. 181 on Public Finance and Fiscal Responsibility contains provisions for elaboration of the MTBF and yearly budget, as well as linking policies with budgeting. The MTBF makes reference to the Government priorities and key central planning documents, and also covers sectoral ceilings for three years.

85 Government Decision No. 33, 11 January 2007.

86 Government Decision No. 34 on Approval of Regulations of the Government of the Republic of Moldova, 17 January 2001, Chapter II, Article 73, Official Gazette No. 008/2001, 25 January 2001.

87 The two most recent work plans of the Government are the GAPIs 2014 and 2015-2016. GAPI 2014 covers 512 activities (a total of 662 actions with sub-activities included) in 142 pages, while GAPI 2015-2016 includes more than 1 350 different activities in a 260-page document. While GAPI 2014 includes the objectives of the Government from the GAPr as well as some impact indicators, GAPI 2015-2016 does not make reference to the GAPr priorities and does not include impact indicators. In both documents many of the envisaged activities are formulated quite vaguely and also cover day-to-day general activities of different ministries. Neither of the GAPIs is available on the website of the Government and can be accessed only through the State Register of Legal Acts.

88 Government Decision No. 164 on Approval of GAPI, 5 March 2014, Article 1825, Official Gazette Nos. 60-65/2014, 14 March 2014.

89 Government Decision No. 680, 30 September 2015.

90 For the calculation, actions resulting in such outcomes as “number of meetings,” “number of organised events,” “number of talks and consultations,” etc., were excluded. The remaining 361 activities were planned with outputs such as “memorandums,” “signed agreements,” “approved projects,” and “change in legislation.”

91 Altogether, the GAPI 2014 foresaw the elaboration of 59 policy documents (24 strategies, 13 programmes, 13 plans and 9 concepts), while the GAPI 2015-2016 plans for the development of 94 such documents (24 strategies, 38 programmes, 13 plans and 19 concepts).

92 Report on the implementation of GAPr 2013-2014, “European Integration: Freedom, Democracy, Welfare,” June 2015, Government of the Republic of Moldova, p.3.

93 The five most recently adopted strategies are: 1) Research and Development Strategy, approved by Government Decision No. 920, 7 November 2014; 2) Integrated Border Management Strategy, approved by Government Decision No. 1005, 10 December 2014; 3) Youth Sector Development Strategy, approved by Government Decision No. 1006, 10

only included estimates for additional funding needs[94] and the MTBF does not provide information on such additional allocations. In addition, the financial ceilings for the achievement of sectoral objectives in the MTBF are merged into one figure for each sector[95], making it impossible to calculate the exact alignment between the MTBF and the objectives of the sample sector strategies. Budget estimates for the implementation of actions within the strategies mostly reflect additional spending needs and the necessity for external funding; therefore, the baseline value for the indicator on completeness of financial estimates in sector strategies is 2.

A system of medium-term policy planning exists but detailed regulations for planning requirements, except for the MTBF, are not in place. Fiscal alignment of strategies and elaboration of comprehensive costing of reforms are not carried out comprehensively or consistently.

Principle 4: A harmonised medium-term planning system for all processes relevant to European integration exists and is integrated into domestic policy planning.

The MFAEI established medium-term planning for EI in 2014. The first NPIAA 2014-2016 was adopted in June 2014 and entered into force in October 2014[96]. In September 2015, the first progress report describing the context, progress and short-term priorities for the coming years was issued. The revised NPIAA entered into force in October 2015[97].

The NPIAA is aligned with the structure of the Association Agreement, reflecting priorities, activities (including legal harmonisation actions), responsible institutions, deadlines and financial resources. However, deadlines mostly cover the whole period of the NPIAA (or are multi-annual) and the financial section only states whether the activity will be financed by the existing budget or from other (external) sources, without mentioning any figures. The NPIAA is also aligned with the GAPI 2015-2016.

Apart from the NPIAA, the harmonisation of legislation has been planned on an annual basis since 2007[98] and is co-ordinated by the CLH. Annual national plans for harmonisation of legislation and yearly reports are prepared, and a database on harmonisation has been available since 2007. The NPIAA and the Annual National Plan for Legal Approximation for 2015[99] are not fully aligned. Overall, according to information provided by MFAEI and the CLH, around 20% of the *acquis* is in place in Moldova.

The NPIAA 2014-2016 included 1 778 measures of implementation, 257 of which had deadlines in 2014, while the revised NPIAA has 1 936 measures of implementation. One hundred and seventy-two items with original deadlines of 2014 were carried forward to the revised plan, leading to a 67% annual implementation backlog for EI-related commitments in 2014.

The medium-term EI planning system is in its rudimentary phase, with actions aligned to the Association Agreement, but not properly costed nor clearly timed. The backlog in EI-related tasks is significant. A separate annual plan for transposition activities exists. The EI medium-term plan and annual legal transposition plan are not fully aligned.

Principle 5: Regular monitoring of the Government's performance enables public scrutiny and ensures that the Government is able to achieve its objectives.

The legal framework for the system of monitoring the work of the Government is partially developed. The Law on Government obliges the Government to report to the Parliament on its activities once a

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December 2014; 4) Strategy on Competitiveness of IT Industry, approved by Government Decision No. 254, 14 May 2015; and 5) Strategy on Biological Diversity, approved by Government Decision No. 274, 15 May 2015.

94 Information on expenditures was included in Action Plans adopted together with strategies.

95 Financial ceilings of sectoral policy objectives are presented in Annex 9 of the MTBF.

96 Government Decision No. 808, 7 October 2014.

97 Government Decision No. 713, 15 October 2015.

98 Government Decision No. 190 on Establishment of the Centre for Legal Approximation, 21 February 2007.

99 Government Decision No. 16, 26 February 2015.

year[100], reporting on annual transposition and EI[101]. Reporting on execution of the annual budget[102] is also stipulated. There are general requirements for monitoring and reporting for all policy documents, including strategies[103], but detailed rules about the form, timeframe and publication requirements of these reports are not developed[104]. On the other hand, every public authority is obliged to plan, monitor and report on its performance regularly[105].

Annual reporting on the work of the Government is not ensured[106]. However, the most recent report on the Government's performance, the Report on the implementation of the GAPr, "European Integration: Freedom, Democracy, Welfare 2013-2014"[107], is a comprehensive document of 114 pages which includes reporting on some outcome indicators and achievement of Government policy objectives. The MoF elaborates annual budget reports that also cover both output and outcome information on policies; MoF reports are published on the website of the Ministry. Regarding EI matters, a reporting system is in place both for NPIAA and for the annual national plans for harmonisation of legislation. Reporting on EI differs significantly from one institution to another, making reporting less transparent and meaningful. NPIAA reports are available to the general public on the MFAEI website.

At the level of sectoral strategies, there are no specific formal requirements for reporting; however, strategies are also required to include regular monitoring and reporting[108]. The analysed sample of sector strategy reports[109] does not provide information about achievements against set objectives, only about outputs and activities. Although the reports are prepared, an integrated and clear reporting system for sectoral strategies is missing, as there is no evidence that reports on implementation were provided to the Government or Parliament for at least 25% of strategies adopted in 2014 and 2015[110].

As a result of the above analysis, the baseline value for the indicator measuring the extent to which reporting provides information on the outcomes achieved is 3. Annual reporting on the performance of the Government is not ensured and there is no evidence that reporting on the implementation of strategies is carried out as foreseen.

While the general legal framework for regular reporting on the performance of the Government is in place, implementation is inconsistent, with irregularities in annual reporting on the work of the Government and in systematic reporting on implementation of sectoral strategies, although some reports do also cover achievements against set objectives.

100 Law No. 64, 31 May 1990, Article 5.

101 Government Decision No. 190, 21 February 2007, Article 2; and Government Decision No. 713, October 2015, paragraphs 2 and 15.

102 Law No. 181, 25 July 2014, Article 12.

103 Government Decision No. 33, 11 January 2007, Chapter IV.

104 One exception is Government Decision No. 1181, 22 December 2010, which stipulates, in detail, the process of planning and executing *ex-post* analysis of implementation of legislation. However, according to information provided by the State Chancellery and the MoJ, this regulation is not adhered to in practice.

105 Government Decision No. 94, 1 February 2013, Chapter II.

106 Reporting requirements are regulated in the respective Government decisions adopting the GAPIs, and Government Decision No. 680 on Approval of the GAPI 2015-2016 envisages comprehensive reporting only at the end of 2016. Though Government Decision No. 164 on Approval of the GAPI 2014 foresaw reporting by the end of 2014, it was actually published only in June 2015. In addition, there is no evidence that the requirement for the Government to report annually to the Parliament has been adhered to in recent years.

107 Report available on the website of the State Chancellery (http://cancelaria.gov.md), but not on the Government website.

108 Government Decision No. 33, 11 January 2007, Chapter IV.

109 2014 annual report on the implementation of the Justice Sector Reform Strategy 2011-2016; report on the implementation of the Civil Society Development Strategy 2012-2015 (March 2014-February 2015).

110 As envisaged in the Methodological Annex as a minimum requirement for sector strategy reports.

Key recommendations

Short-term (1-2 years)

1) The State Chancellery, in collaboration with the MFAEI, the MoJ, the CLH and the MoF, should develop detailed methodologies for the development of central planning documents (including sector strategies), such as:
    a. a timeline for the development, review and adoption of central planning documents;
    b. procedures to ensure consistency and alignment among these documents – with a special emphasis on alignment at the level of Government priorities, and representation in and harmonisation with the MTBF;
    c. detailed methods to ensure that objectives in policy documents are measurable and performance indicators have baseline values and targets;
    d. monitoring reports providing information on the achievement of objectives and performance indicators;
    e. detailed costing methods for planning documents.
2) The State Chancellery, in co-operation with the MoF, should ensure that the requirements for the elaboration and content of policy planning documents (including alignment with the MTBF) are adhered to.
3) The State Chancellery should certify that requirements for regular reporting on the achievements of objectives set in various central planning documents (including adopted strategies) are met, and should ensure that reports on the work of the Government are developed annually and on time.

Medium-term (3-5 years)

4) The MFAEI should enhance medium-term EI planning by adjusting integration-related activity plans to the capacities of the administration and financial barriers of the country, in order to reduce backlog in implementation.
5) The State Chancellery and the MoF should jointly provide training on strategy development, with a focus on full cost estimation and reporting on implementation, to strengthen the capacity of the CoG and line ministries to produce accurate financial estimates for policies.

2.3. Key requirement: Government decisions and legislation are transparent, legally compliant and accessible to the public; the work of the Government is scrutinised by the Parliament.

Baseline values

The assessment of whether Government decisions and legislation are transparent, legally compliant, accessible to the public and scrutinised by the Parliament is based on six indicators distributed over two Principles. These indicators cover: the ratio of regular agenda items submitted on time for Government sessions; the transparency of Government policy making; the number of laws with court rulings against the Government in a given year; the ratio of laws initiated by the Government and approved by the Parliament within a year; the extent to which a forward-planning mechanism exists between the Government and the Parliament; and the number of law implementation reports discussed in the Parliament.

The Government decision-making process generally follows the procedures. There is some level of co-operation between the Government and the Parliament, but forward planning between the Government and the Parliament is not a regular practice. Nevertheless, 72% of the laws sponsored by the Government were adopted by the Parliament within a year of submission. The Assembly has a limited role in scrutinising the effects of legislation and policy making.

	Principle no.	Indicator	Baseline year	Baseline value
Quantitative	6	Ratio of regular agenda items submitted on time [111] by ministries to the Government session.	2014	Not available [112]
	6	Transparency of Government policy making[113].	2014	4.0
	6	Number of laws with court rulings[114] against the Government during the year.	2014	11
	7	Ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission.	2014	72%
	7	Extent to which forward planning mechanisms between the Government and the Parliament exist.	2014	Not available[115]
	7	Number of law implementation reports discussed in the Parliament.	2014	0

Analysis of Principles

Principle 6: Government decisions are prepared in a transparent manner and based on the administration's professional judgement; the legal conformity of the decisions is ensured.

The legal framework for the Council of Ministers to manage the decision-making process, including preparation of sessions of the Government and requirements for submission of proposals, is fragmented. Procedures, roles and responsibilities are stipulated in: the Law On Central Specialised Public Administration; the Law On Legislative Acts[116]; the Law On Normative Acts of the Government and Other Local and Public Central Administrative Authorities[117]; the Law On Transparency in the Decision-Making Process[118]; the Regulations of the Government of the Republic of Moldova and Regulations of Organisation and Functioning of the State Chancellery, Its Structure and Numerical Limitations[119]; and other secondary legislation[120]. The structure, formats, standards, requirements,

111 "On time" is understood as being within the procedural criteria set by regulation(s).

112 Information was not provided by the State Chancellery as no such statistics have been compiled.

113 World Economic Forum Global Competitiveness Index, minimum 1 – maximum 7.

114 By the Constitutional Court.

115 Value cannot be based on the South East Europe (SEE) 2020 Strategy indicator on "forward-planning mechanisms between Government and national as well as sub-national parliaments" as, by definition, it does not cover Moldova.

116 Law No. 780 on Legislative Acts, 27 December 2001, Article 210, Official Gazette Nos. 36-38/2002, 14 March 2002.

117 Law No. 317 on Normative Acts of the Government and Other Local and Public Central Administrative Authorities, 18 July 2003, Article 783, Official Gazette Nos. 208-210/2003, 3 October 2003.

118 Law No. 239 on Transparency in the Decision-Making Process, 13 November 2008, Article 798, Official Gazette Nos. 215-217/2008, 5 December 2008.

119 Government Decision No. 657 on Regulations of Organisation and Functioning of the State Chancellery, Its Structure and Numerical Limitations, 6 November 2009, Article 724, Official Gazette No. 162/2009, 10 November 2009.

120 Especially in Decision No. 34 on the Regulation on Government, 17 January 2001, and Government Decision No. 33 on the Rules of Development and Unified Requirements of Policy Documents, 11 January 2007.

timing of the different stages of document development and opportunities for public consultation, as well as legal scrutiny for different regulations, are described in a very detailed way.

The MoJ is entrusted to check the legal conformity of all draft laws and normative acts (tertiary regulation) of all central and local administrative bodies. The CLH, under the MoJ, scrutinises all drafts from the perspective of harmonisation with the *acquis*. The MFAEI is assigned to check drafts from the EI aspect and the MoF checks drafts for their financial sustainability[121]. The State Chancellery is responsible for checking the legal quality of all drafts before deliberation at the Government sessions, providing legal scrutiny for all Government acts (secondary legislation), scrutinising drafts for policy alignment and checking that drafts meet all the formal requirements for submission (including the explanatory notes and information on public and interministerial consultation and their results).

The State Chancellery has the ultimate responsibility for preparing the Government sessions and has the right to return documents that fail to meet the formal requirements. Based on the data provided by the State Chancellery, in the last quarters of both 2013 and 2014, around 235 proposals were sent back to ministries. In the last quarter of 2014, 856 items were submitted for inclusion in the agenda of Government sessions, and 27% of items were sent back by the State Chancellery.

Government meetings are public and can be watched online, unless the Prime Minister announces a particular meeting as being closed. Agendas, as well as the materials of the Government sessions, are publicly available on the Government's website. The decisions taken by the Government are available on a separate platform[122].

The "transparency of Government policy making" indicator of the Competitiveness Index of the World Economic Forum reflects the ease with which businesses can obtain information about changes in Government policies and regulations which affect their activities. On a scale of 7, Moldova obtained 4 and was ranked 82 out of 144 countries.

For 2014, the baseline value for the indicator on the number of laws with court rulings against the Government during the year was 11. The Constitutional Court found 16 provisions unconstitutional in 2014 and 15 provisions in 2013[123]. The high proportion of legislation annulled each year by the Constitutional Court shows that, even if procedures are followed, the quality of legislation suffers serious deficiencies.

The requirements for the preparation of Government decisions are in place and mainly adhered to. The procedure for legal scrutiny is complex but applied in practice. Checking of the drafts against other requirements is also generally ensured. The transparency of Government decision making is commendable.

Principle 7: The Parliament scrutinises government policy making.

The fundamental principles of co-operation between the Parliament and the Government are set out by the Constitution[124], the RoP of the Parliament[125] and the Law on the Government[126].

Based on statistics provided by the Parliament[127], the Legislature is quite active, adopting an average of five legislative acts in each plenary session. Moreover, legislative activity is not primarily steered by the

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121 In addition, as part of the consultation process the Working Group for regulating entrepreneurial activity is to review Regulatory Impact Assessments (RIAs) of regulations affecting businesses. Nevertheless, according to information provided by the Secretariat of the Working Group at the MoE, many of the drafts under this provision were not presented for scrutiny by the Working Group.

122 www.particip.gov.md.

123 Numbers of court rulings against the Government have been provided by the State Chancellery. The list of provisions declared unconstitutional can be found in the 2013 and 2014 Annual Reports of the Constitutional Court.

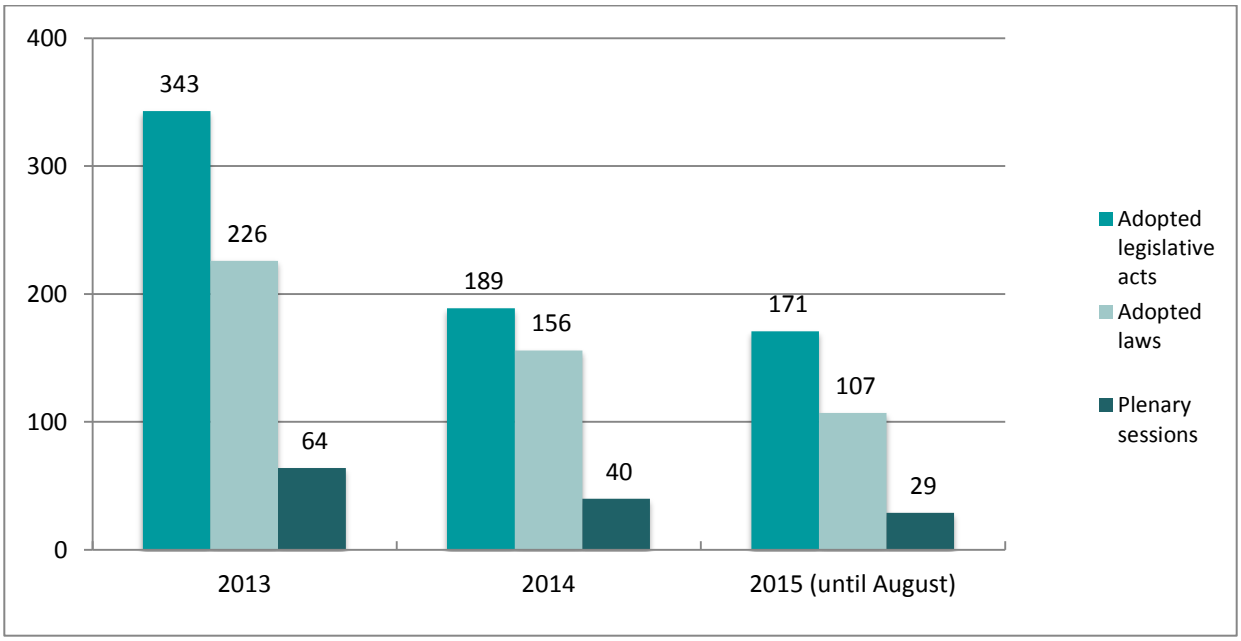
124 Constitution of the Republic of Moldova, 29 July 1994, Chapter VII.

125 Law No. 797, 2 April 1996, Articles 25, 40, 43, 44, 58, 67, 70, 78, 111 and 116.

126 Law No. 64 on the Government, 31 May 1990, Articles 5 and 8.

Government, since in 2015 only 65 out of 309 legislative plans in Parliament had been sent by the Government by August. In 2014, 146 out of the 377 legislative proposals submitted to the Parliament were sent by the Government.

Figure 3. Annual number of plenary sessions, adopted legal acts and laws in the Parliament



Source: Secretariat of the Parliament.

The Government does not usually send its legislative plans to the Parliament, and neither is there a tradition of elaboration of a legislative plan for the Parliament. However, in 2015 the Parliament adopted its plan regarding transposition of EU legislation for 2015-2016[128].

Legal scrutiny of drafts is decentralised, so that Standing Committees organised by policy area[129] deal with draft legislation according to subject. All draft legislative acts are also reviewed by the Legal Department of the Secretariat of the Parliament that supports the work of all Standing Committees. There is no regulation stipulating that the Government must submit draft laws to the Parliament with supporting documents, including a Regulatory Impact Assessment (RIA) and information on consultations. Therefore, the Parliament receives only the draft of the legal text and the accompanying explanatory note.

The Law on Government requires the Government to take part in the work of the Parliament[130]. The Government appointed the Deputy Minister of Justice as its permanent representative in the Parliament, and this representative also takes part in the preparation of the Agendas of the Parliament's sittings. The State Chancellery also has a separate section devoted to its relationship with the Parliament. In 2013, ministers attended the Parliament's plenary sessions a total of 21 times; in 2014, 12 times; and 24 times in the first half of 2015[131].

The baseline value for the indicator on the ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission is 72%. In 2013 the Government sent 153 laws for adoption to the Parliament, of which 110 were adopted within one year of their submission.

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127 Annual Report on Activities of the Secretariat of the Parliament, 2014, http://www.parlament.md/SecretariatulParlamentului/RapoartedeactivitateDezvoltarestrategic%c4%83/Rapoartedeactivitate/tabid/211/ContentId/2157/Page/0/language/ro-RO/Default.aspx.

128 Parliament Decision No. 146, 9 July 2015.

129 As set in Parliament Decision No. 48, 29 October 2009.

130 Law No. 64 on the Government, 31 May 1990, Article 8.

131 Information provided by the State Chancellery.

The baseline value for the indicator on the number of law implementation reports discussed in the Parliament is 0, because the tool for scrutinising the work of the Government is not used.

There is no formalised forward planning between the Government and the Parliament, but dialogue is regular and frequent. Procedures for scrutiny of legislation in the Parliament are defined and carried out in a decentralised manner. The Government does not provide the Parliament with all supporting documentation in its possession with legislative drafts and the Parliament is not engaged in reviewing implementation of legislation.

Key recommendations

Short-term (1-2 years)

1) Under the co-ordination of the State Chancellery, the MoF, the MoJ, the CLH and the MFAEI should align their review of policy drafts and should maintain regular dialogue to ensure smooth preparation of Government sessions.
2) The State Chancellery should analyse the causes, propose solutions and, if necessary, provide additional training to staff in ministries to reduce the number of draft proposals sent back for improvement.
3) The Government should send its annual legislative plan to the Parliament, which should introduce a system of annual planning of its legislative work, partly on the basis of the Government's legislative plan.
4) To improve the exchange of information and increase the quality of scrutiny carried out by the Parliament, relevant legislation should be amended with the requirement to attach all supporting documents to the package of draft laws sent to the Parliament by the Government.

Medium-term (3-5 years)

5) The Parliament and the Government should jointly introduce a system of regular reporting on implementation of major laws and the Government should provide the Parliament with detailed information on actual implementation of the most important laws and policies within a specific time frame following their adoption.

2.4. Key requirement: Inclusive, evidence-based policy and legislative development enables the achievement of intended policy objectives.

Baseline values

The assessment of whether policy and legislative development are inclusive, evidence-based and achieve the intended goals is based on ten indicators. These cover the extent to which ministries are oriented towards policy development; the backlog of transposition; the number of annually transposed directives; the extent to which policy development makes best use of analytical tools; the extent to which public consultation is used; the extent to which the interministerial consultation process occurs; the ratio of staff participating in legal drafting trainings; the number of laws annulled due to legal inconsistency or unconstitutionality; the number of laws sent back to the Government by the Parliament; and the extent to which legislation is made publicly available.

In Moldova, the basic foundations for evidence-based and inclusive policy development are in place. The main challenges are a lack of systematic use of conflict resolution mechanisms before Government decisions and the scant use of analytical tools in developing new policies, despite the requirement to add financial and economic substantiation to draft regulations and to analyse their impact on entrepreneurial activity. All primary and secondary legislation is available online in a consolidated manner and draft legislation routinely undergoes public consultation.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which ministries are oriented towards policy development.	2015	4
	10	Extent to which policy development process makes the best use of analytical tools.	2015	3
	11	Extent to which public consultation is used in developing policies and legislation.	2015	4
	11	Extent to which the interministerial consultation process occurs.	2015	3
	12	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	2015	5
Quantitative	9	Backlog of transposition[132].	2014	9%
	9	Number of annually transposed directives.	2014	42
	12	Ratio[133] of staff participating in legal drafting training or mentoring over the past year.	2014	Not available[134]
	12	Number of laws annulled on the basis of legal inconsistency or unconstitutionality in a given year.	2014	12
	12	Number of laws sent back to the Government by the Parliament.	2014	0

Analysis of Principles

Principle 8: The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet the Government objectives.

The Law on Government stipulates the general responsibility of the Government and the ministries for policy development and drafting of legislation[135]. Government decrees[136] regarding the organisation

132 "Backlog" is analysed as the comparison of documents consisting of commitments (GAWP, EI plan) from two consecutive years, taking into account items carried forward from one year to the next.

133 Ratio is calculated as staff trained, over the total ministerial staff dealing with legislative drafting.

134 Ninety-eight civil servants were trained in 2014 on legal drafting, but as the total number of ministerial staff dealing with legislative drafting is not known it is not possible to calculate the ratio.

135 Law No. 64 on the Government, Articles 11-18.

136 See as examples used for this analysis, Government Decree No. 793 on the Ministry of Agriculture and No. 690 on the MoE.

and functioning of the 16 ministries prescribe their areas of competence in which they develop policies and draft regulations in detail. As a rule, policy development and regulatory drafting is not transferred to subordinate bodies of ministries[137].

Internal ministerial decrees stipulate the responsibilities of the different departments, which are directly subordinate to the minister or deputy minister in charge of a policy area. The division of functions between the legal departments and departments dealing with policy development in their particular sector is clearly defined[138]. Of the two ministries analysed in detail, the Ministry of Economy (MoE) has adopted internal regulations prescribing the steps of the policy development process, but the Ministry of Agriculture does not have such internal rules. The relevant policy department of the MoE has the leading role in development and drafting of policy content and the legal department contributes legal expertise. Staff working in policy development departments constitutes more than 30% of a ministry's total staff[139].

The indicator which measures the extent to which ministries are oriented towards policy development has a value of 4, as four out of the five elements required are in place. This is because internal rules which regulate, in detail, the procedures and processes of policy development and legal drafting within the ministries are not always in place; however, a sufficient ratio of staff participating in policy development is ensured.

Ministries have clear organisational structures, and policy responsibilities among them are attributed without conflicts. The overall system for policy development is supported by appropriate rules. While the basic framework for policy development has been established, internal rules for steering the policy development and legislative drafting process within ministries are not always in place.

Principle 9: The European integration procedures and institutional set-up form an integral part of the policy development process and ensure systematic and timely transposition of the acquis.

In Moldova the legal framework for EI procedures and harmonisation of the national legislation with the EU *acquis* is in place, with Government Decree No. 1345 being the key regulation describing the requirements and procedure of legal harmonisation. Co-ordination and scrutiny of legal harmonisation is divided among the MoJ, in particular the CLH and the MFAEI. The CLH is responsible for planning, co-ordinating and monitoring the harmonisation process while the MFAEI is responsible for, among other things, communicating the results of national harmonisation activities with EU bodies[140]. The draft annual National Plan for Legal Approximation (NPLA) is elaborated, on the initiative of the CLH, with ministries being asked to submit proposals which take into account the approximation timetable stipulated in the Annexes of the Association Agreement signed in 2014. However, ministries submit their proposals independently and, according to the CLH, they do not always follow the timetable of

137 According to interviewed Ministry of Agriculture officials, subordinate agencies do occasionally prepare draft regulation for the ministry and the ministry then proceeds with the interministerial and public consultations, and subsequently submits the draft to the Government. An example is a draft law and impact assessment prepared by the National Agency for Food Safety to amend Laws No. 119 and 221 (the opinion on the RIA of that draft was provided by the MoE as one of the sample opinions for review).

138 For example, the Regulation of the Directorate of Energy Efficiency and Renewable Energy Sources (Articles 7 and 8), the Regulation on the Legal Department of the MoE, and the Regulation on the Department of Plant Protection and Food Safety of Plan Origin of the Ministry of Agriculture and Food Industry.

139 In the MoE, 78% (109 out of 140) of the actual staff works in departments dealing with policy development; in the Ministry of Agriculture 69% (59 of 85) of the actual staff works in departments dealing with policy development.

140 Government Decision No. 1345, Article 1, distinguishes between the functions of the MoJ (co-ordination of harmonisation) and the MFAEI (informing of EU bodies on implementation), but in the description of the harmonisation process itself, the two ministries are also mentioned in parallel (see Article 12 for consultations on the harmonisation process, and Article 23 for interministerial consultation for transpositions with secondary legislation).

the Association Agreement. The NPLA is adopted by the Government (separately from the Government Activity Plan)[141].

The *acquis* transposition process forms an integral part of the overall policy development process, as all legal instruments implemented for harmonisation must follow the general content and procedural requirements prescribed for all normative acts[142]. In addition, draft regulations dealing with harmonisation of Moldovan legislation with the EU *acquis* must be accompanied by a table of concordance[143] and must be submitted to the CLH and the MFAEI for co-ordination[144]. The exact limits or synergy of the review of these two bodies has not been specified in the regulations but, based on sample opinions provided for review, only the CLH is performing the quality control function on transposition matters[145]. The CLH has a planned staff of 22 and the actual number of employees is 11.

All drafts dealing with approximation must first be sent to the MFAEI and other related ministries during the interministerial consultation process and then to the MoJ as the last stage before the Government deliberation[146]. The Government Commission for European Integration of Moldova[147] is the highest-level political body for interministerial co-ordination on EI-related matters. It is chaired by the Prime Minister, involves all ministers and should convene at least once a month[148]. In practice, the Government Commission had two meetings in 2014 and four in 2015.

The *acquis* is already translated into the national language (Romanian), as Romania is a member of the European Union. The indicator representing the backlog of transposition is 9% for 2014. The country planned 77 transpositions, and 7 transposition cases were carried over to the plan for 2015. The number of transposed directives in 2014 was 42, but this includes only 9 items from the 2014 harmonisation plan. The rest (33) were from previous years' plans (and mentioned in the plan for 2014) or unplanned. The reason for the low value of the backlog indicator – while the number of adopted transpositions from the plan of 2014 is also small – is the lack of continuity in planning of harmonisation. The plan for 2015 does not include most of the items from the 2014 plan, which were not adopted (and should have been carried over). In addition to planning issues, the CLH reports regarding transposition focus on the number of drafts submitted to them for review by other ministries, not the number adopted by the Government or Parliament. The MFAEI does not monitor actual transpositions either.

The procedural framework and the institutional set-up for EI are defined; an overlap of functions exists in planning and monitoring of transposition. In addition, the annual transposition plans lack continuity and monitoring does not focus on actual adoptions. Tables of concordance are regularly used. The interministerial co-ordination and conflict resolution structure is in place.

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141 In addition to the NPLA, the Government works on the basis of the NPIAA, which was prepared by the MFAEI and consists of all EI-related obligations of the ministries (including transpositions). The deadlines for approximation of directives in the two plans do not always coincide (for example, Directive 2007/36/CE must be transposed by the end of 2015 according to NPLA and by the end of 2016 according to the NPIAA; the same applies for Directive 2009/102/CE), but the ministries are obliged to report quarterly on fulfilment of their NPLA-related obligations to the CLH, and on fulfilment of NPIAA-related obligations to the MFAEI.

142 Including, for example, the analysis of options, and their impacts and costs; see Government Decision No. 1345, Article 11.

143 Government Decision No. 1345, Articles 21 and 23. This requirement is also followed in practice: according to the online Excel-based database of harmonisation activities kept by the CLH, all draft regulations submitted to the CLH in 2013-2015 were accompanied by a table of concordance.

144 Ibid., Article 22.

145 Samples of CLH opinions reviewed include regulations concerning the placing on the market and use of biocidal products, transposing Regulation (EU) No. 528/2012 of the European Parliament and the draft law transposing Directives 2011/95/EU, 2013/32/EU and 2013/33/EU of the European Parliament.

146 Government Decision No.1345, Article 22.

147 Established by Government Decision No. 679, 13 November 2009.

148 Ibid.

Principle 10: The policy making and legal drafting process is evidence-based and impact assessment is regularly used across ministries.

In Moldova, all policy documents must be accompanied by an impact assessment (including economic, financial, social and environmental impacts)[149]. Financial and socio-economic substantiation must be added to draft regulations in the form of an explanatory note. The note must also include analysis of impacts (costs and benefits) on businesses, if the draft regulates entrepreneurial activity[150]. The Government has adopted a corresponding methodology for assessing the impacts on businesses and monitoring the effectiveness of regulatory acts[151]. It prescribes the requirements for the content of the analysis (including the identification of the problem, alternative solutions and their impacts, and the preferred option) as well as the process (the preparation of the initial RIA, its review and, upon approval, elaboration of the draft and final RIA)[152]. Based on these regulations, a State Commission and Working Group for regulating entrepreneurial activity have been established to review draft regulations from the perspective of their impact on businesses[153]. Furthermore, a separate Government decision regulates the regular monitoring of implementation of legislation (*ex-post* evaluation) under the co-ordination of the MoJ[154]. In addition, the MoF has adopted a separate methodology on the budgetary process, which includes a chapter on guidelines for estimating the cost of policy proposals[155].

Based on the sample draft laws and accompanying explanatory notes, only the impacts on businesses are analysed[156], and even these inconsistently[157]. The explanatory notes of sample draft laws not affecting entrepreneurial activities[158] describe the content of the regulation and usually do not include the "financial and socio-economic substantiation", or simply conclude that impacts are positive, without analysis[159]. Based on the analysed sample, initiators of drafts do not adhere to the MoF methodology on costing policy proposals, as the impacts on budget are not thoroughly analysed[160]. Moreover, the MoF does not refer to its guidelines when underlining lack the quality of fiscal impact analysis in its opinions[161]. The State Chancellery is responsible for verifying whether the proposals submitted to the Government for adoption or approval meet the requirements laid down for draft regulations and accompanying explanatory notes[162]. Based on the sample opinions provided[163], the

149 Government Decision No. 33 on Rules and Unified Requirements for Policy Documents, Article 27.

150 Law No. 780 on Legislative Acts, Article 20(e) and Law No. 317 on Normative Acts of the Government and Other Local and Public Central Administrative Authorities, Article 37(f_1).

151 The so-called RIA.

152 Government Decision No. 1230, 24 October 2006.

153 Government Decision No. 1429, 16 December 2008.

154 According to information provided by the State Chancellery and the MoJ, this regulation is not adhered to in practice.

155 MoF Order No. 191, 31 December 2014.

156 The draft Law on Market Surveillance was provided as a sample that included a detailed and comprehensive RIA, describing potential impacts on businesses.

157 According to statistics provided by the Secretariat of the Working Group for January through September 2015, 67% of all normative acts regulating entrepreneurial activity adopted during that period had not been reviewed by the Working Group (35 out of 52).

158 Samples analysed include the explanatory note for the draft Law on Notary Service; the explanatory note for the Law on Prosecutor Service and the explanatory note for the draft Law on National Standardisation.

159 For example, the explanatory note for the draft Law on National Standardisation: "Promotion of this law will help to ensure greater economic efficiency, increased competitiveness of the national economy, protecting consumers and the environment and facilitate the export to foreign markets."

160 For example, the explanatory note for the act setting up an independent notary service with the acknowledged need for strong state surveillance simply concluded that no budgetary funds are necessary for the implementation of the regulation; the explanatory note for the Law on Prosecutor Service confirmed the need for additional budgetary funds for the increase of prosecutors' salaries, but failed to identify the exact amount, hence the extent of fiscal impact.

161 Conclusion based on the sample opinions provided by the MoF: opinion on the draft Government Decision on the Transmission of Goods; opinion on the draft Government Decision on Amending Some Government Decisions (impacting the number of staff in Border Police); and opinion on the draft Law on the Penitentiary System.

162 Government Decree No. 34, Article 10, paragraph 3.

State Chancellery does comment on the content, the lack of substantiation or the business impact assessment.

Regulatory proposals affecting entrepreneurial activity and the accompanying impact assessments are scrutinised by the Working Group of the State Commission for regulating entrepreneurial activity under the MoE in two stages – assessment of the initial RIA before the drafting of the regulation and assessment of the final RIA together with the draft regulation. Based on the opinions provided, the quality control of the Working Group is sufficient, focusing on identification and analysis of relevant impacts and proper consultation of interest groups[164].

The value of the indicator measuring the extent to which the policy development process makes the best use of analytical tools is 3. *Ex ante* analysis regarding impacts on entrepreneurial activity is carried out for only one third of the regulatory proposals, which affects business activity. Substantiations of fiscal, other economic and social effects are not consistently incorporated in the explanatory note accompanying policy drafts and do not meet the minimum requirements.

The legal framework for inclusive and evidence-based policy making is in place, but its implementation is limited. *Ex ante* analysis exists, but it is not consistently applied.

Principle 11: Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordinating perspectives within the Government.

The general requirement for public authorities to carry out public consultations is stipulated in Law No. 239 on Transparency in the Decision-Making Process[165]. According to the Law, the public must have at least 15 days to submit recommendations on the proposed initiative, unless the decision is adopted under emergency circumstances[166]. The initiating public body must examine the recommendations, compile an overview of the results of the consultation process (including the submitted proposals and conclusions) and make it available to the public[167]. In practice, the summary tables are added to the package submitted to the Government but are not consistently published in any other manner[168].

Public consultations are carried out by directly contacting the relevant stakeholders and through websites (the website www.particip.gov.md or the websites of the public bodies[169]), where the draft

163 Sample opinions reviewed include the opinion on the draft Law on Normative Acts; the opinion on the draft Law on Civil Servants with Special Status; the opinion on the draft Law on Ways of Organising and Conducting the Sobriety Control; the opinion on the draft Amendments to the Regulation on the Prices of Medical Forensic Expertise; and the opinion on the draft Law on Sanitary Regulation for the Supervision of Health Condition of People Exposed to the Impact of Professional Risk Factors.

164 Samples analysed include the opinion on the draft Law Amending Law No. 42 on Transplantation of Organs, Tissues and Cells; the opinion on the draft Regulation on Principles of Planning, Conducting and Approving the Tariff for Investment in the Energy Sector; the opinion on the draft Law Amending Law No. 119 on Plan Protection Products and Law No. 221 on Sanitary-Veterinary Activity; and the opinion on the draft Government Decision on the Approval of the Technical Regulation Concerning the Placing on the Market of Child-Safe Lighters and Prohibiting the Placing on the Market of Novelty Lighters.

165 Article 3(4).

166 Articles 9(1) and 14. "In case of emergency circumstances, the arguments regarding the necessity to adopt a decision urgently, without consulting the citizens, associations and other concerned parties, shall be communicated to the public within a maximum of ten days since adoption, by placing them on the official website of the public authority, by posting them inside/outside its headquarters within a space accessible for the public and/or releasing them to the central or local mass media, on a case-by-case basis" (Article 14[2]).

167 Articles 12(4) and (5).

168 The website www.particip.gov.md is not used for publishing results of the public consultation. Out of the two sample ministries analysed, the MoE published one summary of public consultation on its website in 2015 (http://www.mec.gov.md/ro/advanced-page-type/rezultatele-consultarilor-publice) and organised 124 public consultations the same year (http://particip.gov.md/statistics.php?l=ro). There are more summaries published for 2014, but not for all consultations. The Ministry of Agriculture does not publish the results of the consultations.

169 In 2013, 99% of public consultations took place only on the web (577 out of 583) according to "Transparency in the Decision Making of the Central Public Administration Authorities: January–December 2013" by the Association for Participatory Democracy (ADEPT).

regulations are published for comments together with the deadline for providing comments and the relevant contact information. According to www.particip.gov.md, 635 drafts were published for consultations in 2014 and they received a total of 19 comments through the website[170]. According to the State Chancellery, in 2014, citizens, employers' associations and representatives of businesses submitted a total of 4 106 comments (through all channels), of which 65% were accepted.

Before submitting the act for approval or adoption by the Government, the initiating public body must co-ordinate the draft with other ministries affected by the matter[171]. Authorities are obliged to present their opinions within ten working days after receipt of the draft. After the general interministerial consultation procedure, the draft is submitted to the MoJ for legal expertise[172] and then to the Government. The draft also has to contain a table with all received opinions and the responses to them from the initiating body. Based on the analysed sample draft laws[173] this requirement is regularly met. In case of unresolved issues between the ministries, it is possible to discuss the matter in working groups assembled by the Prime Minister or Deputy Prime Minister[174]; however, according to the information provided by the State Chancellery, such bodies have not been set up. A regular forum for administrative-level conflict resolution is also missing.

As a result of the above analysis, the indicator value for the extent to which public consultation is used in developing policies and legislation is 4. Regulation is in place that sets out clear procedures for public consultation; its execution is regular and a mechanism exists to check the execution and its outcomes, but outcomes are not regularly published. The value for the indicator showing the extent to which the interministerial consultation process occurs is 3. Interministerial consultation occurs routinely and the Government is informed about the outcomes of the consultation process, but consultation forums for conflict resolution are not established.

Regulation sets clear procedures for the involvement of stakeholders in policy making; this is followed consistently, with the exception of the outcomes of public consultations. Interministerial consultation with regards to policy and legislative proposals is developed but lacks conflict resolution mechanisms at the high administrative and political levels.

Principle 12: Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.

The requirements for draft legal acts (laws) are prescribed in two laws – Law No. 317 on Acts of Government and Other Local and Public Central Administrative Authorities and Law No. 780 on Legal Acts – and in Government Decision No. 34 on Regulation of Government. The MoJ is responsible for the scrutiny of draft laws submitted to the Government to ensure coherence and legal quality[175]. In addition, the State Chancellery ensures that the drafts are consistent in structure, style and language. The State Chancellery – through the Academy of Public Administration – is organising training on legal drafting for staff of ministries. Ninety-eight civil servants were trained in legal drafting in 2014. The CLH has prepared a methodology for harmonisation of legislation[176] and guidelines on how to develop the table of concordance[177] to help drafters on transposition issues.

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170 http://particip.gov.md/statistics.php?l=ro.

171 Law No. 64 on the Government, Article 38, and Government Decision No. 34 on Regulation of Government, 17 January 2001, Article 8.

172 According to Government Decision No. 34, 17 January 2001, Article 9.

173 The draft Law on Notary Service, the draft Law on Prosecutor Service, the draft Law on National Standardisation and the draft Law on Market Surveillance.

174 According to Government Decision No. 34, 17 January 2001, Article 10, paragraph 5.

175 According to Government Decision No. 34, 17 January 2001, Article 9.

176 Available at: http://www.justice.gov.md/public/files/publication/Centrul_de_armonizare/Metodologia%20de%20armonizare%20a%20legislatiei%20RO.pdf.

The Constitutional Court annulled 12 laws in 2014, while the Parliament did not return any law to the Government in the same year.

According to Law No. 173 on Publication of Official Acts, all official documents including laws, decrees, orders and decisions have to be published in the Official Gazette in order to enter into force[178]. The Official Gazette is available in electronic format, but the acts and amendments are not published in consolidated versions (but as PDF files containing the adopted amendments) and the most recent Gazettes are only available to registered users[179]. Nevertheless, the MoJ is responsible[180] for keeping the "State Register of Legal Acts of the Republic of Moldova"[181], in which all legislation is published online in consolidated form and available for free.

The value for the indicator which measures the extent to which primary and secondary legislation is made publicly available in a centralised manner is therefore 5. All primary and secondary legislation is available to the public in consolidated format through the electronic registry of the MoJ.

Legal drafting requirements have been defined; requirements and guidelines for simple and clear legal drafting exist and are applied across the ministries. All primary and secondary legislation is available electronically.

Key recommendations

Short-term (1-2 years)

1) The Government should ensure that internal rules for policy development are in place in all ministries, describing the internal procedures for policy development and legal drafting in detail.
2) The Parliament, on the initiative of the Government, should further clarify the specific roles and responsibilities of the CLH and the MFAEI regarding planning, monitoring and review of drafts of legal harmonisation with the EU *acquis* in order to avoid overlaps; monitoring of harmonisation at the level of transposed EU Directives should be ensured.
3) The State Chancellery should ensure that the requirements for public consultation, including the publication of the outcomes of the consultation process (as required by Article 12 (4) of the Law on Transparency in the Decision-Making Process), are constantly applied.
4) The Government should establish and regularly utilise interministerial conflict resolution forums at both high administrative and political levels to minimise the potential for policy documents with unresolved issues to be presented at Government sessions.

Medium-term (3-5 years)

5) The State Chancellery, together with the MoF and the Secretariat of the State Commission for Regulating Entrepreneurial Activity, should develop a unified approach to *ex-ante* impact assessment of draft policies and should ensure application of the methodology through regular training of civil servants of ministries and thorough reviews of draft policy documents.

177 Available at: http://www.justice.gov.md/public/files/publication/Centrul_de_armonizare/Ghid%20cu%20privire%20la%20intocmirea%20Tabelelor%20de%20concordanta.pdf.

178 Article 1.

179 The website of the Official Gazette: http://monitorul.md/.

180 According to Government Decision No. 1381, 7 December 2006.

181 Available at: http://lex.justice.md/.

3
Public Service and Human Resource Management

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-2015

1.1. State of play

The horizontal scope of the civil service, regulated in the Civil Service Law[182] (CSL), is not fully in line with the Principles, as several institutions exercising public authority are not within its scope, and the special regulations do not ensure a professional merit-based public service. There was an attempt to improve the vertical scope of the civil service by introducing the position of state secretaries recruited on merit, but the legislation does not provide the necessary managerial power for state secretaries and is not fully applied.

There is currently no strategic document with a clear and coherent policy containing concrete implementation measures to indicate that public service reform is a priority for the Government. Primary and secondary legislation is complete, but some issues regulated by secondary legislation exceed authorisations in the primary legislation. The weak legal and institutional position of the Division for the Reform of Central Public Administration (DRCPA) does not enable efficient management of the civil service, despite the many efforts and initiatives it has undertaken. The Human Resource Management Information System (HRMIS) does not function well, mainly due to incomplete data and limited scope.

Open competition in recruitment is hampered by the composition of competition commissions, which comprise only members of the hiring authority and are headed by its deputy managers; the high proportion of non-competitive processes used to fill vacancies and the fact that civil servants were nominated to some vacancies in violation of the Law. The CSL does regulate conditions for termination of service but it allows for subjective dismissals.

The salary system for civil servants established in the Law does not function well. Some elements of pay are not implemented, and there is no maximum limit for the share of variable pay, leaving too much room for managerial discretion.

Although some attention is paid to professional development, there is room for improvement. The compulsory number of hours of training per civil servant has not been achieved. Planning of training lacks a strategic approach. Performance appraisal has not yet yielded the expected results because the inflation of ratings makes it difficult to link appraisal with other management decisions, such as promotions.

1.2. Main developments

The Government Decision on implementing an Automated Information System (Register of Public Positions and Civil Servants) was adopted in February 2014[183], but the level of implementation is still too low to realise the full potential of the Registry.

The Law 98/2012[184] established the position of state secretary as a senior civil service position and the recruitment commission for senior civil servants was created in February 2014[185]. At the end of 2015, 9 positions of state secretary were occupied, out of a total of 16 positions.

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182 Law No. 158 on Public Office and the Status of Civil Servants, of 4 July 2008 with later amendments, Official Gazette Nos. 230-232/2008, 23 December 2008.

183 Government Decision No. 106/2014.

184 Law No. 98 on Central Public Administration Specialist, of 4 May 2012, Official Gazette Nos. 160-164/2013, 2 March 2013.

185 Government Decision No. 154/2014.

Announcement of civil service vacancies has improved, with the creation in 2013 of a government portal[186] devoted to civil service careers[187]. The portal has introduced uniformity of hiring practices by public authorities and has expanded the reach of vacancy announcements, which are compulsory for all public entities[188].

In the area of remuneration, advancements on salary scales have been implemented only since 2015[189] although the relevant legislation on salaries was adopted in 2012. Insufficient resources did not allow for these payments in the past.

186 Available at: www.cariere.gov.md.

187 Government Decision No. 1022/2013.

188 Ibid. Clause 4.

189 Information from the Ministry of Finance, confirmed by the State Chancellery.

2. ANALYSIS

The analysis covers the seven Principles of the public service and human resource management (HRM) area, grouped under two key requirements[190]. Under each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover all relevant elements related to the public service[191]: the scope and legal framework of the public service; professionalism in recruitment, training and performance appraisal; fairness and transparency of the salary system; and the promotion of integrity as well as prevention of corruption.

2.1. Key requirement: The scope of public service is clearly defined and applied in practice so that the policy and legal framework and institutional set-up for professional public service are in place.

Baseline values

The scope, policy, legal framework and institutional set-up are analysed exclusively through three qualitative indicators. The first covers the scope, the second examines the policy and legal framework, and the third focuses on institutional set-up, management, monitoring and co-ordination of the civil service.

The material[192] and horizontal scope of the civil service in Moldova is clearly regulated, but some institutions that fulfil typical tasks of governmental administration are not included. As regards vertical scope, there was an effort to clearly demarcate the lower and upper lines of the civil service[193]. The legal framework relating to state secretaries is in place, but is not fully implemented.

Co-ordination, management and monitoring of the civil service are weak, due to understaffing and limited legal competences of the unit responsible for this task and incomplete implementation of the IT register.

Primary and secondary legislation are complete, but some issues regulated in secondary legislation go beyond authorisations in the primary legislation.

190 SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 41-56.

191 In *The Principles of Public Administration* and in the Baseline Measurement, a **narrow horizontal scope of public service** is applied. It covers: i) ministries and administrative bodies reporting directly to the Government, Prime Minister or ministers (i.e. the formal civil service); ii) administrations of the Parliament, the President and the Prime Minister; iii) other administrative bodies at the level of central administration if they are included in the scope of the public service in the law on the public/civil service, exercise public authority conferred by public law and are responsible for safeguarding the general interests of the state or other public bodies; and iv) independent constitutional bodies reporting directly to the Parliament.

192 In *The Principles of Public Administration*, the **material scope of public service** means that the law on public/civil service establishes all general provisions relevant to the employment relations of public servants and management of public service, such as scope and principles of the civil service; classification; recruitment and selection, including of civil servants in senior managerial positions; rights and obligations of civil servants, including the integrity system; remuneration (main principles and components of salary system); professional development, including performance appraisal, training, mobility and promotion; disciplinary procedures, including suspension of the civil service relationship; termination of employment, including demotion and redundancy; management and central co-ordination of the civil service.

193 In *The Principles of Public Administration*, the **vertical scope of public service** means that the law on public/civil service clearly determines the upper and lower division line between political appointees, public servants and support staff.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	2015	3
	2	Extent to which the policy and legal framework for professional and coherent public service is established and implemented.	2015	2
	2	Extent to which the institutional set-up enables consistent HRM practices across the public service.	2015	3

Analysis of Principles

Principle 1: The scope of public service is adequate, clearly defined and applied in practice.

The civil service is regulated by the Civil Service Law 158/2008, which has been amended 13 times since its approval. The definition of a civil servant is clear and in line with the Principles[194]. The material scope of the public service[195] is covered by the CSL and developed in detail in different pieces of secondary legislation. This legislation applies to 33 970 civil servants[196] from central and local levels of government, which was 11% of all public sector employment (307 900 employees) in 2014, which in turn represented 26% of total employment[197].

Table 1. Employment in the civil service compared to total employment

	2013	2014
Total employment in the economy	1 172 800	1 184 900
Public sector employment	316 500	307 900
Employment at the level of the central administration	29 386	29 400
Employment in the civil service as defined in the Civil Service Law (at the end of the year, at the level of the central administration).	10 401	10 488

Source: State Chancellery (2015), Report on the Public Office and Status of Civil Servant.

194 CSL, Articles 2 and 3.

195 In *The Principles of Public Administration*, the **material scope of public service** means that the law on public/civil service establishes all general provisions relevant to the employment relations of public servants and management of public service, such as scope and principles of the civil service; classification; recruitment and selection, including civil servants in senior managerial positions; rights and obligations of civil servants, including the integrity system; remuneration (main principles and components of salary system); professional development, including performance appraisal, training, mobility and promotion; disciplinary procedures, including suspension of the civil service relationship; termination of employment, including demotion and redundancy; and management and central co-ordination of the civil service.

196 State Chancellery (2015), Report on the Public Office and Status of Civil Servant.

197 National Bureau of Statistics, Labour Force Survey. Total employment: 1 184 900.

In the central administration, the civil service had 10 488 staff[198], representing 35.7% of all employees at the central level[199].

The horizontal scope of the civil service has expanded in recent years. The number of central public authorities to which the CSL applies rose from 179 in 2013 to 186 in 2015[200].

However, the horizontal scope does not fully comply with the Principles of Public Administration[201]. First, the CSL does not apply to the Parliament or to some regulatory agencies[202] that are subordinated to the Government. Second, some employees who execute public powers (such as issuing national identity cards, passports, driving licences, and land registry titles) are outside the civil service, employed by the *Registru*, a state-owned enterprise (SOE). This is analysed in detail in the chapter on accountability. Third, the Law does not cover personnel of certain administrative bodies, such as diplomats and customs officers, who have special status (approximately 15 000 staff[203]), and it is applied only with regard to the issues not covered by special legislation. As a result, the special provisions do not always guarantee a comparable level of professionalism [204].

From a vertical perspective, the CSL clearly establishes staff at lower levels of the administrative hierarchy to which the Law does not apply[205], and it distinguishes positions of the senior civil service[206]. Different pieces of legislation apply to groups not in the civil service, such as politically appointed officials holding public dignity offices[207] and discretionary appointments in the cabinet of public dignity offices[208].

In addition, the State Chancellery has carried out the process of distinguishing technical and civil service positions by endorsing the staff lists of all central public authorities between 2014 and 2015. Regarding the upper level of the civil service, there are 36 senior civil service positions, but only 25 senior civil servants in office[209]. Although the CSL introduced the position of state secretary in 2013, only 9 out of 16 have been appointed so far. Their mandate is weak, and their responsibilities are unclear.

As the horizontal scope of the civil service is not fully in line with the Principles and implementation of top civil service positions is flawed, the value of the indicator for the extent to which the scope of public service is adequate, clearly defined and applied in practice is 3.

198 State Chancellery (2015), Report on the Public Office and Status of Civil Servant.

199 National Bureau of Statistics, estimated data (according to the M3 Annual Report and No. 1-FP).

200 State Chancellery and Government Decision No. 1001 of 26 December 2011.

201 *The Principles of Public Administration*: a) Positions that could be reserved for national civil servants are those with public authority and legal competencies to exercise powers conferred by public law, to propose public policies and regulatory instruments or to give advice on them; and b) positions with responsibility for safeguarding the general interests of the state or other public bodies.

202 For example, regulatory agencies subordinated to the Government include the State Agency on Intellectual Property, the Agency on Medicaments and Medical Equipment and the Civil Aviation Authority.

203 Information obtained from the State Chancellery.

204 State secretaries from all ministries are selected by competition except for the Secretary of State of the Ministry of Foreign Affairs. Another example is Article 9 of the Law No. 1150/2000 on Customs, which states that the General Director will specify for which positions competitive recruitment takes place and the conditions.

205 Information provided by the State Chancellery. Personnel of public authorities fulfilling auxiliary secretariat, protocol and administrative tasks, and the management of information systems, including introduction and processing of information ensuring the functioning of the public authority (Article 4 c). Approximately 9 000 staff, according to the State Chancellery.

206 CSL, Article 8.

207 They are listed in Law No. 199/2010, Annex.

208 Law No. 80/2010 on the Status of Personnel in the Cabinet People with Public Functions, adopted 7 May 2010 with later amendments, Official Gazette Nos. 117-118/2010, 9 July 2010.

209 State Chancellery (2015), Evaluation Report on the Implementation of Personnel Procedures in Public Authorities in 2014.

The horizontal scope of the civil service, as regulated in the CSL, does not cover all necessary institutions and groups of civil servants. There was an attempt to improve the vertical scope of the civil service by introducing the position of state secretaries recruited on merit, but the legislation does not provide the necessary managerial power for state secretaries and is not fully applied.

Principle 2: The policy and legal framework for a professional and coherent public service is established and applied in practice; the institutional set-up enables consistent and effective human resource management practices across the public service.

The public service lacks a coherent long-term strategic plan. Several documents mention the public service, but there are no clear, sufficiently detailed and coherent measures in place to support implementation of reforms in the public service[210].

The CSL mentions explicitly the following principles: transparency (Articles 1, 5 and 29); efficiency (Articles 1, 2, 37, 39 and 40); responsibility/accountability (Articles 5 and 8); and legality (Articles 5 and 23)[211]. However, transparency and openness are not fully applied in some HR processes, such as promotions and transfers, which are not always based on merit but are the preferred method for filling vacancies, rather than open competitions.

Primary and secondary legislation[212] is adopted. The legislation is complemented with guidelines[213] on how to implement the most challenging HR processes. The decision was made to have a CSL that covers only basic issues, leaving details for secondary legislation. In some cases, however, too many issues were left for secondary legislation, which sometimes exceeds authorisations in the primary legislation[214].

In light of weaknesses in the policy on civil service reforms and flaws in the legal framework, the value of the indicator for the extent to which the policy and legal framework for professional and coherent public service is established and implemented is 2.

The unit in charge of managing the civil service (DRCPA) has limited powers and its position is weak. The Government is responsible for the civil service[215] and delegates its authority to the State Chancellery[216]. The State Chancellery, however, shares responsibility for the civil service with other ministries[217], which hampers a coherent approach to the civil service.

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210 Programming of the European Neighbourhood Instrument 2014-2020; Single Support Framework for EU support to the Republic of Moldova (2014-2017); *Programul de Activitate al Guvernului Republicii Moldova* 2015-2018; Moldova 2020, National Development Strategy: 7 Solutions for Economic Growth and Poverty Reduction; Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part; and the Medium Term Budgetary Framework 2015-2017.

211 SIGMA lists the following administrative law principles that should be in public service legislation: reliability and predictability (legal certainty), openness and transparency, accountability, efficiency and effectiveness. SIGMA (2014) *The Principles of Public Administration*, OECD Publishing, Paris, p. 45.

212 The omnibus Government Decision No. 201/2009 included 11 pieces of secondary legislation. Since then, other pieces of secondary legislation have been added to the list.

213 On the website http://cancelaria.gov.md, more than 21 Practical Guidelines have been published since 2009, with 5 Guides approved in 2014 and 3 in 2015. They cover all relevant topics from how to sanction civil servants to how to use non-financial motivation schemes.

214 Secondary legislation relating to recruitment allows a candidate who did not win a competition but passed it successfully, to be hired in a similar position within six months (Annex 1, Point 45^1 of the Government Decision No. 201 of 11 March 2009). This goes beyond the legal delegation in Article 29(4) of the CSL that says "the procedure for organising and running the competition shall be established by the Government". A similar problem is the introduction in secondary legislation of the option to choose any candidate for a senior position who successfully passed the selection (not necessarily the best candidate).

215 CSL, Article 11. According to Government Decision No. 605/2013, the Prime Minister holds general responsibility over the civil service.

216 Government Decision No. 657/2009.

217 The Ministry of Labour, Social Protection and Family is responsible for remuneration of civil servants, the Ministry of Justice and the State Chancellery for integrity policy, the Ministry of Finance for size of the civil service and staff costs,

In the State Chancellery, the DRCPA is responsible for the civil service. Its competences related to civil service management are weak and not defined by primary legislation.[218]

The DRCPA's monitoring of legal procedures has no real consequences for non-compliant authorities, and the DRCPA does not have the capacity to sanction non-compliant behaviour[219].

The number of DRCPA employees increased from five to nine in 2014, but that is still insufficient to perform all tasks[220]. Despite low staffing, the DRCPA undertakes numerous initiatives to support HR management in the civil service. For example, it elaborates guides (accessible on its website) and organises quarterly meetings with HR unit representatives.[221]

Development of the personnel registry[222] started in August 2011[223], and the system was launched in February 2014[224], but it is still not fully implemented, which limits its potential. Shortcomings in implementation include the following:

- Some authorities are not included in the registry.[225]
- The scope of information is limited[226] (for example, it does not contain information on salaries).
- It is inefficient for public authorities to manage the registry and also maintain their own databases.

In light of the weak position of the central unit and the fact that the HRMIS is not working properly, the value of the indicator for the extent to which the institutional set-up enables consistent HRM practices across the public service is 3.

There is currently no strategic document containing clear and coherent policy and concrete implementation measures to indicate that public service reform is a priority for the Government. Primary and secondary legislation is complete, but some issues regulated by secondary legislation exceed the authorisation in primary legislation. The weak legal and institutional position of DRCPA

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and the National Anti-Corruption Centre for preventing and combating corruption. The National Commission for Integrity is responsible for implementing verification and control of declarations submitted in accordance with Law No. 1264/2002 on Declaration and Control of the Income and Ownership of State Dignitaries, Judges, Prosecutors, Public Officials and Certain Persons Vested with Managerial Functions and the Law on Conflicts of Interest of 15 February 2008.

218 The competences of DRCPA are regulated in the State Chancellery Regulation on the Organisation and Functioning of the General Directorate on Policy Co-ordination, External Assistance and Central Public Administration Reform.

219 State Chancellery (2015), Evaluation Report on the Implementation of Personnel Procedures in Public Authorities in 2014. In 2014, the DRCPA issued and submitted 11 evaluations with recommendations to public authorities, but no disciplinary or legal sanctions were issued in response to violations of the legislation. In 2014, there were 79 appointments to vacancies without the mandated competition. The DRCPA lacked the legal power to overturn those decisions, but it monitored the institutions closely.

220 The DRCPA only has one legal expert to service requests from all public authorities at central and local levels.

221 In the eight meetings held in 2014 and 2015, the DRCPA disseminated information on new projects, such as implementation of anti-corruption policy, salary steps and the use of the government portal for advertising vacancies. Due to their length and structure, these meetings offer limited opportunities for discussing common problems and working out solutions.

222 Automated Information System, Register of Civil service and Civil servants.

223 State Chancellery (2015), Report on the Public Office and Status of Civil Servant, p. 9.

224 Government Decision No. 106/2014.

225 Mission Report from the Twinning Project: MD/14/ENP/OT/18, Support to the Civil Service Modernization in the Republic of Moldova in line with EU best practices, Activity 1.6. At the end of 2014, only 25 institutions had included all the required information in the registry, as specified in the Government Decision No. 106/2014; 73 central public authorities were in the process of providing this information, but more than 100 central public authorities had yet to do so.

226 Information provided by the State Chancellery. Relevant information is missing in the following areas: salaries; recruitment plans of administrative bodies and of public servants; training budget and expenditure of administrative bodies; and training days per civil servant, per category of civil servant and per administrative body. No institution possesses sufficiently detailed data related to remuneration of civil servants.

does not enable efficient management of the civil service, despite its many efforts and initiatives. The HRMIS system does not function properly, mainly due to incomplete data and limited scope.

Key recommendations

Short-term (1-2 years)

1) The State Chancellery should analyse the legal provisions regulating HRM in public authorities which are currently outside the civil service (for example regulatory agencies, excluding those reporting to Parliament) or are subject to special regulations (such as the diplomatic service or customs) and which exercise public authority or responsibility for safeguarding the general interest of the state.
2) The State Chancellery should increase the pace of data collection for the personnel registry.

Medium-term (3-5 years)

3) After the review performed by the State Chancellery (Recommendation 1), the Government should propose to the Parliament changes to legislation concerning HRM for a number of public authorities which are outside the civil service or subject to special regulations and which exercise public authority or responsibility for safeguarding the general interest of the state, in order to ensure a merit-based, professional public service.
4) The Government should enlarge the scope of the registry by including data on salaries.
5) The Government should further strengthen the position of the central management unit by enhancing its legal competencies (which should be specified in the primary legislation) and further increasing the number of staff.

2.2. Key requirement: Professionalism of public service is ensured by good managerial standards and human resource management practices.

Baseline values

The professionalism of the public service is examined through 8 qualitative indicators and 16 quantitative indicators that refer to merit-based recruitment and termination of employees in the public service, including senior public servants; a fair and transparent salary system; professional development and appraisal of public servants; and measures to promote integrity and prevent corruption in the public service.

Values are not available for many quantitative indicators, partly because data in the IT register is incomplete and it does not contain any data at all on remuneration.

The qualitative indicators show that legislation is in place, although it is sometimes flawed, but there are problems with implementation. There are still loopholes related to merit-based recruitment and dismissal for both expert and top managerial positions. Other areas, such as performance management, are well designed, but not always properly applied.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Extent to which recruitment of public servants is based on the merit principle in all its phases	2015	2
	3	Extent to which the termination of employment of public servants is based on merit	2015	1

	Principle no.	Indicator	Baseline year	Baseline value
	4	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	2015	2
	5	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	2015	3
	6	Extent to which the training system of public servants is in place and applied in practice.	2015	3
	6	Extent to which the performance appraisal system of public servants is in place and applied in practice.	2015	3
	7	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	2015	3
	7	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	2015	3
Quantitative	3	Annual turnover of civil servants at the level of central administration.	2014	14.5%[227]
	3	Turnover of civil servants at the level of central administration within six months of a change of Government.	2014	Not available[228]
	3	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	2014	47.1%[229]
	3	Percentage of vacant positions filled by internal competition in the civil service at the level of central administration.	2014	Not applicable[230]

227 State Chancellery (2015), Report on the Public Office and Status of Civil Servant. In 2014, 1 454 civil servants left any administrative body from the central administration, out of a total of 10 008 civil servants at the end of the year.

228 Data requested by SIGMA from the administration during the 2015 Baseline Measurement Assessment was not provided.

229 State Chancellery (2015), Report on the Public Office and Status of Civil Servant, Annex 4. In 2014, 1 378 civil servants were hired through external competitions at the level of the central public administration, out of 2 928 civil servants employed in civil service positions at the central level.

230 Promotions and transfers are not performed on a fully competitive basis, so they are not treated as internal competitions.

	Principle no.	Indicator	Baseline year	Baseline value
	3	Percentage of women in the civil service at the level of central administration.	2014	70.6%[231]
	3	Percentage of women in senior managerial positions in the civil service at the level of the central administration.	2014	37%[232]
	3	Percentage of civil servants at the level of the central administration by different ethnic origin in relation to the general ethnic division in the country based on the latest census.	2014	Not available[233]
	4	Annual turnover of senior managerial civil servants at the level of the central administration.	2014	0%[234]
	4	Turnover of senior managerial civil servants at the level of central administration within six months of a change of government.	2014	Not available[235]
	4	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	2014	87.5%[236]
	4	Percentage of vacant senior managerial positions at the level of central administration filled by internal competition.	2014	Not available[237]
	5	Ratio of average annual compensation of central government senior and junior professionals to compensation of tertiary-educated workers.	2014	Not available[238]

231 State Chancellery (2015), Report on the Public Office and Status of Civil Servant. At the end of 2014, there were 7 402 women in the civil service out of a total of 10 488 of civil servants.

232 Ibid. At the end of 2014, there were 10 women in top senior civil service positions out of a total of 27 civil servants in top civil service positions.

233 Data requested by SIGMA from the administration during the 2015 Baseline Measurement Assessment was not provided.

234 State Chancellery (2015), Report on the Public Office and Status of Civil Servant.

235 Data requested by SIGMA from the administration during the 2015 Baseline Measurement Assessment was not provided.

236 State Chancellery (2015), Report on the Public Office and Status of Civil Servant. In 2014, eight top civil service positions were filled at the central level, seven of them staffed by competition.

237 The legal provisions do not foresee internal competitions for top civil service positions.

238 Data was not provided by the State Chancellery.

	Principle no.	Indicator	Baseline year	Baseline value
	5	Ratio of average annual compensation of central government senior public servants to compensation of tertiary-educated workers.	2014	Not available[239]
	7	Transparency International Corruption Perception Index – the country score.	2014	35[240]
	7	Citizens' perception of the integrity and trustworthiness of the public service.	2014	Not available[241]
	7	Number of public servants who have been criminally convicted of corruption crimes.	2014	93[242]

Analysis of Principles

Principle 3: The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.

Open competition criteria for the recruitment of civil servants are regulated in primary and secondary legislation[243], but the practice is still limited as specified below. As a positive development, since 2014[244], vacancy notices reach a wider audience because they are advertised on a government portal[245] as well as on the websites of individual public authorities.

Open competitions are not the dominant method of recruitment. Open competitions were held for only 47.1% of the 2 928 vacancies in central public authorities in 2014 (compared to 45.1% in 2013[246]). Since promotions (18.7%) and transfers (29.1%), mostly not conducted on a competitive basis, have legal priority to fill vacant positions[247], they were used to fill a considerable number of vacancies[248]. Open competitions are less common for management positions in the civil service (29.1% of all vacancies) than for expert positions (57.1%)[249].

239 Ibid.

240 Transparency International (2015), Corruption Perceptions Index of 2014.

241 The number 64% was given by the National Anti-corruption Centre, but no detailed methodology was provided that would allow verification of methodology used in the research

242 National Anti-corruption Centre.

243 CSL, Article 28 and Government Decision No. 201/2009.

244 Government Decision No. 1022/2013.

245 Available at: www.cariere.gov.md.

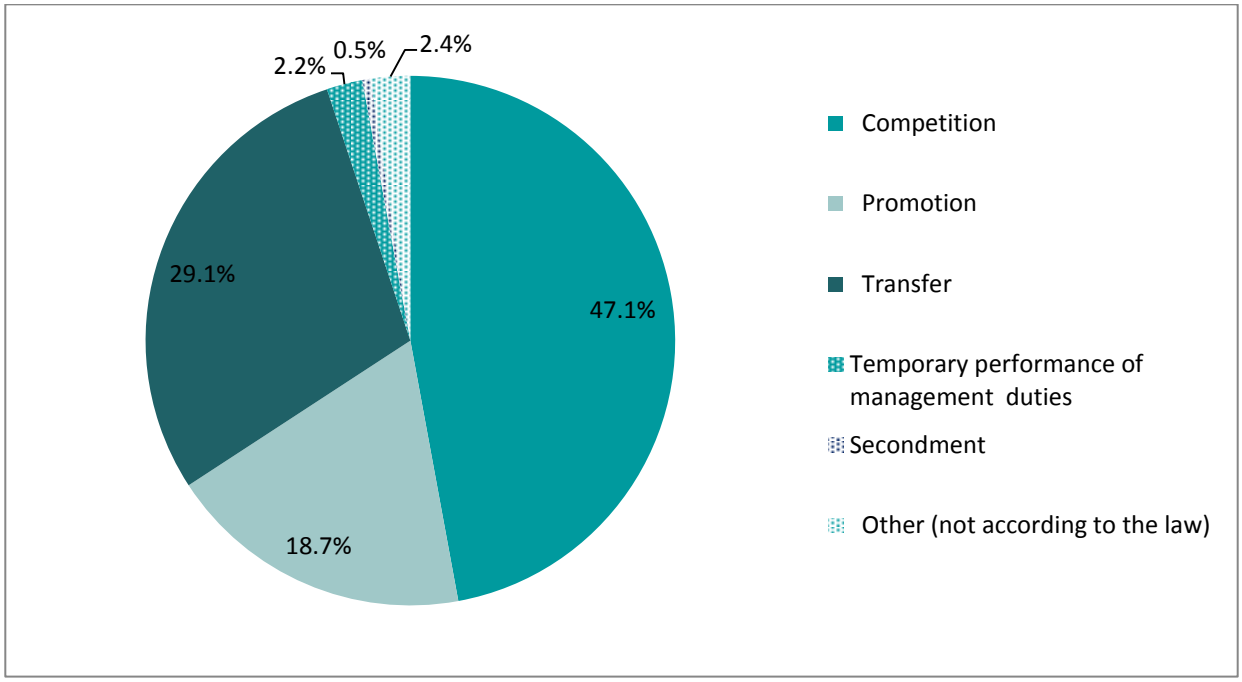
246 State Chancellery (2014) Report on the Public Office and Status of Civil Servant, Annex 4.

247 CSL, Articles 28, 1 and 2.

248 Ibid. It must be stated that the high number of transfers was influenced, among others, by the reorganisation of the National Agency of Food Safety.

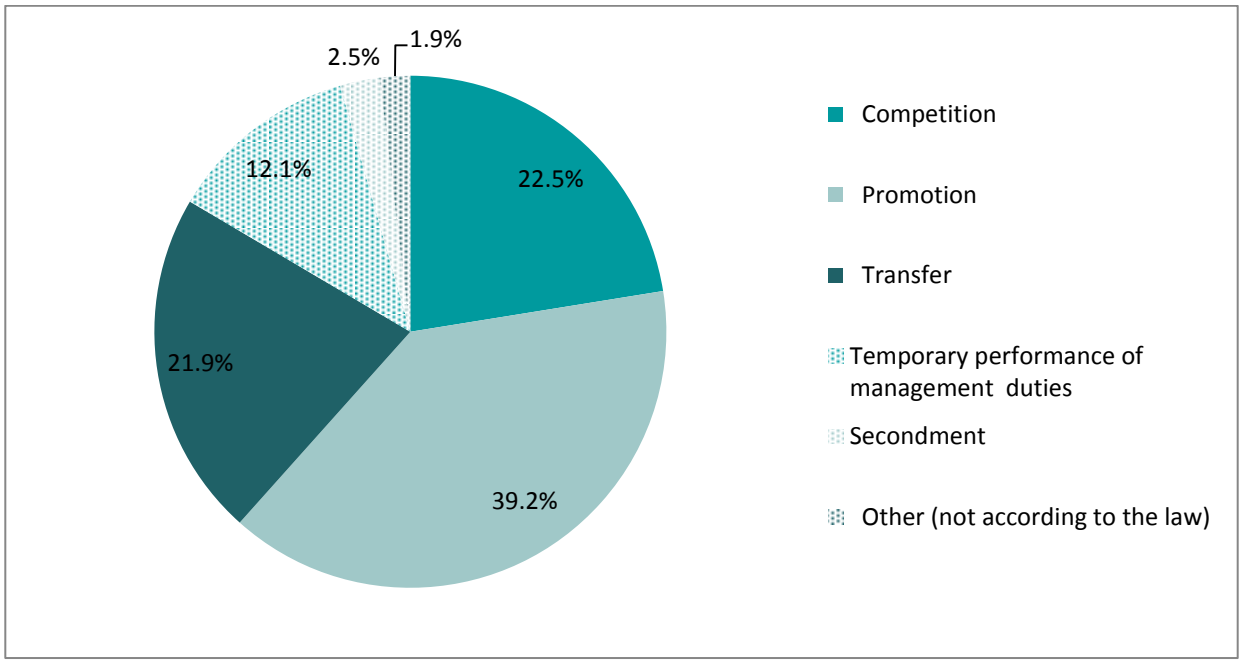
249 State Chancellery (2015) Report on the Public Office and Status of Civil Servant, Annex 4.

Figure 1. Different methods of recruitment to civil service positions[250] at the central level.



Source: State Chancellery (2015), Report on the Public Office and Status of Civil Servant.

Figure 2. Different methods of recruitment to civil service management positions at the central level.



Source: State Chancellery (2015), Report on the Public Office and Status of Civil Servant.

In 2014, 79 civil servants were appointed without competition by superiors of the authority, representing 2.2% of the total number of vacancies (down from 156 positions in 2013, representing 3.9% of the total number of vacancies[251]).

The selection procedure includes examination of application documents, a written test composed of multiple tasks and an interview. Recruitment committees have no external participants. They include

[250] All positions in the civil service, including managerial.

[251] State Chancellery (2015) Report on the Public Office and Status of Civil Servant, Annex 4.

only members of the hiring authority[252], and are chaired by the deputy manager, who has hierarchical authority over the other committee members. In addition, there are no safeguards to prevent leakage of the written test or interview questions. These are sources of distrust in the recruitment process. The average number of candidates per vacancy in central public authorities in 2013 and 2014[253] was low (2.7, down from 4.3 in 2011[254]).

The legislation does not foresee internal appeal procedures related to recruitment or dismissal. Dissatisfied candidates must take their dispute to the administrative court[255]. Data was not provided on results of appeals to the court, or on internal appeals of disciplinary sanctions.

As promotions are not fully based on merit in practice, and the composition of recruitment commissions does not guarantee impartial decisions, the value of the indicator for the extent to which recruitment of public servants is based on the merit principle is 2.

Although no specific provisions of the CSL promote gender equality in the civil service, women have a significant presence in the management of the civil service: 61.5% in managerial positions in central administration and 37% in top civil service positions[256].

Conditions of termination of employment are specified in the CSL[257]. The turnover rate of civil servants at central level bodies in 2014 (14.5%) was higher than in 2013 (12.5%)[258]. This average masks a worrying distribution of turnover in central public authorities. In five ministries, the turnover rate was more than 25% in 2014. This hinders efficient HRM and continuity for these ministries[259], and has high costs in terms of recruitment, induction courses for junior civil servants, and skills and competence training.

Three disproportionate provisions of the CSL lead to dismissal, which are not in line with good EU practices: 1) when a second disciplinary sanction is applied before the first one has expired (regardless of the seriousness of the sanction); 2) when a civil servant obtains one “unsatisfactory” rating at the annual performance appraisal; and 3) after an unexplained absence from work for four consecutive hours in one working day[260].

As the criteria allow too much discretion in decisions on dismissal, the value of the indicator for the extent to which termination of employment of public servants is based on merit is 1.

Open competition in recruitment is hampered by the composition of competition commissions (formed only of members of the hiring authority and headed by its deputy manager), the high proportion of non-competitive processes used to fill vacancies, and the fact that civil servants were nominated to some vacancies in violation of the Law. Conditions of termination of service are regulated in the Law but it allows for subjective dismissals.

252 Government Decision No. 201/2009, Article 54, 3.

253 State Chancellery (2014), Report on Public Position and Status of Civil Servants for 2013, Annex 6.

254 SIGMA (2012), *Moldova: Peer Review of the Civil Service Legal Framework and its Implementation since the Enactment of Law 158/2008* and SIGMA (2012), *HRM Practices in the Moldovan Public Administration*.

255 CSL, Articles 29 and 60 and Law on Administrative Litigation, 793/2000, Article 14.

256 State Chancellery (2015) Report on Public Position and Status of Civil Servants, Annex 2.

257 CSL, Articles 61-65.

258 State Chancellery, Report on Public Position and Status of Civil Servants for 2013.

259 State Chancellery (2015), Report on Public Position and Status of Civil Servants, Figures 51 and 52. Turnover in Ministry of Environment: 35.3%; Ministry of Transport and Road Infrastructure: 31%; Ministry of Defence: 29%; Ministry of Youth and Sports: 28.2%; and Ministry of Education: 27.7%.

260 CSL, Article 64, 1, a), d) and f).

Principle 4: Direct or indirect political influence on senior managerial positions in the public service is prevented.

There are separate rules for recruitment, dismissal and career progression of a very limited group of senior civil servants[261]. These specific recruitment procedures only started to apply in February 2014, after the Government approved the functions and powers of state secretaries in all ministries[262], who are appointed for an indefinite period. In 2014, 25 of the 36 senior civil positions (69.4%) had been filled[263].

The position of state secretary is not well-established in law or in practice. Provisions regulating the responsibilities of state secretaries are not well defined, and the real scope of responsibilities varies across ministries, depending on decisions of ministers. Corporate functions (such as human resource management) are not always assigned to state secretaries, with the minister taking decisions in those areas [264]. Furthermore, these provisions create overlaps between the responsibilities of state secretaries and those of deputy ministers.

Senior civil service positions were filled through open competition[265], except for the position of Secretary of State for the Ministry of Foreign Affairs, who enjoys special status, falling outside the scope of the CSL. The appointing authority varies for different positions[266].

The recruitment commission for senior civil service competitions consists of seven experts, including the presidents and members of different academic institutions[267]. Members are not required to have specific merit or experience to assess candidates. The State Chancellery organises meetings of the commission and issues methodological guidelines on how to apply the legal framework.

All vacancies are advertised on the government website, on the website of the public authority and in national media outlets. The selection procedure for external recruitment largely meets EU standards. On a positive note, promotions and transfers (which are not fully competitive or based on merit) are not allowed for senior civil service vacancies. However, a negative aspect is that, as stipulated in the secondary legislation[268], the superior can choose any candidate from the short list.

The number of senior civil service positions increased from 24 in 2013 to 36 in 2014. There were 6.6 candidates per vacancy[269], which suggests higher competiveness than for other civil service positions.

The same rules for dismissals apply to senior civil servants as to other civil servants.

Given that there is too much room for discretion in appointment of state secretaries, their competences are not well defined, and dismissal criteria for senior positions are not in line with EU good practice, the value of the indicator for the extent to which political influence on recruitment and dismissal of senior managerial positions in the public service is prevented is 2.

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261 CSL, Article 8.

262 Government Decision No. 155/2014.

263 State Chancellery, Report on Public Position and Status of Civil Servants for 2014.

264 Government Decision No. 155/2014 and Law No. 98/2012.

265 Government Decision No. 201/2009.

266 CSL, Article 8, 5. The Government appoints the Secretary of State of ministries and the deputy head of administrative authorities. The head of the public authority concerned appoints the head and deputy head of the administrative office of each public authority (Parliament, President of the Republic of Moldova, the Superior Council of Magistracy, Constitutional Court, Supreme Court, General Prosecutor's Office, Court of Accounts).

267 Government Decision No. 154/2014. Academy of Public Administration, Academy of Sciences, Academy of Economic Studies, Free International University of Moldova, State University of Moldova

268 Government Decision No. 201/2009, Annex 1, Paragraph 44. This important issue should be regulated by primary legislation. Moreover, it seems that this provision goes beyond the delegation of the CS Law, as it limits the principle of competence and professional merit and equal access to positions, as stipulated in CSL, Article 29, Paragraph 1.

269 State Chancellery.

Recruitment for senior positions is well-regulated, and the high number of candidates per position suggests that there is trust in these procedures, but dismissal criteria reveal the same shortcomings as for other civil servants. The position of state secretaries is weak and many of these positions are still not filled.

Principle 5: The remuneration system of public servants is based on the job classification; it is fair and transparent.

The Law on the Civil Servants' Payroll System (LCSPS), later referred to as the Law on Salaries, (48/2012) and two articles of the CSL regulate remuneration of civil servants[270]. The principles of remuneration[271] are well established, and the list of allowances and bonuses and the relationship between fixed and variable parts are regulated[272]. The maximum level of variable pay compared to base salary is set at 30%, but, in practice, this may be exceeded, as it does not cover all elements of variable pay (for example, exceptional bonuses), especially when not all planned positions are filled and the remaining money is spent on bonuses.

The Single Classifier together with the Law on Salaries establishes the list of positions, with their description and requirements, and assigns salary levels to those positions.

There is a system of collective performance bonuses, paid to divisions every six months after assessment of the results achieved. A ministerial committee examines reports on achievement of targets and distributes funds among the divisions. In each division, the head distributes the amounts among the different civil servants[273].

In addition, civil servants may be granted non-financial incentives and financial support to solve social and living problems[274] (although this allowance is rarely disbursed). Civil servants with special status have more benefits, according to their special legislation[275].

In practice, legal provisions on remuneration are not fully applied. Advancement based on salary scales has been implemented only since 2015[276], although the relevant legislation on salaries was adopted in 2012[277]. Furthermore, annual bonuses have not yet been applied due to lack of resources[278].

Base pay is transparent, due to clear and detailed regulations, whereas distribution of bonuses is left to the discretion of managers. Another lack of transparency relates to additional payments attached to participation of the board of a SOE[279] or joint stock company.

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270 CSL, Article 39, states that "remuneration shall provide the civil servant with the necessary conditions for efficient performance of his/her duties and contribute to staffing the public authorities with qualified personnel." Article 40 refers to the motivation of civil servants and incentives, such as a bonus, verbal appreciation, a diploma of honour and state honours.

271 The salary classification, based on the job classification system, the complete list of variable elements of salary and the relationship between fixed and variable salaries.

272 LCSPS No. 48/2012, Articles 5,1 and 5,2. The salary of a civil servant is composed of a fixed part (which is related to the position and a supplement for the qualification degree/special degree/diplomatic rank) and a variable part (bonus for collective performance, an annual bonus, one-time bonus, bonus for additional tasks).

273 Government Decision No. 94/2013.

274 CSL, Article 42.

275 SIGMA (2014) *Civil Service Professionalisation in Armenia, Azerbaijan, Georgia, Moldova and Ukraine*.

276 Information from the Ministry of Finance, confirmed by the State Chancellery.

277 Salary steps depend on the results of performance appraisals. This is problematic, because good and very good performance appraisal results are granted to almost everyone, and this may have considerable impact on the overall payroll if not properly controlled.

278 Budgetary laws from 2014 and 2015, for instance, stipulate that the annual bonus will be implemented the following year.

279 Ministry of Economy (2012), Public Policy Proposal on norms for corporate governance of enterprises with a state share. In 2011, there were 1 136 participants on the boards of SOEs, 90% of them employees of public institutions or

There is no detailed and accurate information on the average salaries of civil servants, since the Ministry of Finance does not have disaggregated data on different categories of employees within individual public authorities[280].

The average monthly salary in 2014 was the same as in 2013, MDL 5 290 per month for management and expert civil servants, and MDL 9 255 for top management civil servants (or senior civil servants)[281]. Compared to the average monthly salary for all economic activities of MDL 4 172, the monthly average salary of the civil service is relatively high. In addition, civil servants are entitled to a better retirement system than private sector employees[282]. However, in real terms, the levels of salaries are very low[283].

Given that some elements of remuneration have not been implemented and there is too much room for discretion related to variable pay, the value of the indicator for the extent to which the remuneration system of public servants is fair and transparent and applied in practice is 3.

The salary system of civil servants is established in the CSL, but it does not work well in practice, as some elements of pay have not been implemented. There is no maximum limit on the share of all the elements of variable pay, leaving too much room for managerial discretion.

Principle 6: The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.

The CSL, supplemented by five pieces of secondary legislation[284], offers a piecemeal approach to civil service training as it does not identify clear responsibilities for training nor strategic planning of training[285]. In particular, the CSL does not clearly assign to the DRCPA a supervisory role on the planning, funding and quality of training.

The legislation obliges civil servants to undertake 40 hours of training per year, and junior civil servants to attend a training programme of a total of 80 hours[286]. Those goals seem not to be realistic, taking into account budgetary constraints. Furthermore, public authorities have to commit 2% of their payroll to training[287]. Only 41.2% of civil servants in central public administration participated in training for the required amount of hours in 2014. The budget for training increased slightly, from MDL 448 200 in 2013 to MDL 457 200 in 2014 (below the inflation rate)[288].

A bottom-up approach is used to identify training needs, with no strategic approach. The legislative basis for training planning exists but there are no detailed guidelines on how HRM units of different public authorities should identify their training needs[289]. The Personnel Register still does not centralise

civil servants. Of these, 539 were employed by the ministry with responsibility for the SOE, including 334 in the Ministry of Economy and 229 in the Ministry of Finance.

280 This disaggregation is only visible in the planned salaries.

281 State Chancellery (2015), Report on the Public Office and Status of Civil Servant, p. 18. Information provided by the Ministry of Finance.

282 Law No. 156/1998 and National Development Strategy, “Moldova 2020”, p. 55.

283 For the base salary of the lowest grade, the lowest salary step is a little over EUR 100, whereas for the highest grade and highest salary step, it is just below EUR 500.

284 Professional Development of Public Servants; Framework Regulation of HR unit within the public authority and the Regulation on performance appraisal of civil servants, included in the omnibus Government Decision No. 201/2009; Regulation on the status of Academy of Public Administration, Government Decision No. 225 of 26 March 2014 and State Order for developing qualification of civil servants for the year 2015 by the Academy of Public Administration, Government Decision No. 1000 of 10 December 2014.

285 CSL, Article 37. There is a generic statement entrusting government with general responsibilities on training.

286 Ibid.

287 Ibid. Article 37, 3 c.

288 State Chancellery (2014), Report on Public Position and Status of Civil Servants for 2013.

289 The report “Assessment report on the current state regarding civil servants’ training system and proposals for further development, produced by the Twinning Project Twinning Project MD/14/ENP/OT/18, Support to the Civil Service Modernization in the Republic of Moldova in line with EU best practices. The report confirms some shortcomings,

knowledge on training gaps to feed overall planning for training[290]. Some public authorities have access to specialised training offered by international donors, but there is no central point to co-ordinate this training. Finally, there are no clear processes or guidelines on how to allocate training to civil servants when supply does not meet demand.

In light of these factors, the value of the indicator for the extent to which the training system of public servants is in place and applied in practice is 3.

Performance appraisal is regulated in primary and secondary legislation[291], and has been implemented since 2010 in all public authorities and for all categories of civil servants. In practice, almost every civil servant (97.1%) is rated as good or very good. This inflation of ratings is widely accepted[292]. Civil servants have the right to appeal their performance appraisal results, and 14 civil servants at central level (0.25% of those appraised) did so in 2014[293].

Due to the inflation of ratings, performance appraisal does not play an important role for other human resource processes, for example promotions where "good" or "very good" ratings are prerequisites. In 2014, there were 547 promotions (18.7% of all vacancies)[294]. Another factor that hinders promotions and discourages civil servants from applying for new positions is the low progression of base salaries[295].

Transfers, which have preference over competitions to fill vacancies, can be between subdivisions of one public authority or between different public authorities. In 2014, there were 852 transfers (representing 29.1% of all filled vacancies)[296].

Seven civil servants received negative performance ratings in 2014. There is no concrete data on how many were dismissed as a consequence of a negative appraisal [297].

From a formal point of view, the appraisal system works correctly but, in practice, civil servants are generally overrated. In light of this, the value of the indicator for the extent to which the performance appraisal system of public servants is in place and applied is 3.

In the area of professional development there is room for improvement. The compulsory number of hours of training per civil servant each year has not been realised. Training needs to be planned with a more strategic approach. Performance appraisal has not yet yielded the expected results because the inflation of scores makes it difficult to link appraisal with other management decisions affecting civil servants (such as promotions).

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including lack of a top-down approach, lack of sufficient guidelines and insufficient monitoring of training plans. A document, *Dezvoltarea profesională a personalului din autoritatea publică. Instruirea internă: Ghid metodic*, is available on the State Chancellery web page and is very general.

290 Twinning Project MD/14/ENP/OT/18: Support to the Civil Service Modernization in the Republic of Moldova in line with EU best practices, Assessment Report on the current state regarding the civil servants' training system and proposals for further development, 2015.

291 CSL, Articles 34-36 and Government Decision No. 201/2009.

292 Transparency International (2014), *Monitoring Conflict of Interest in Moldova*, pp. 26-27. In a 2014 survey of civil servants in 21 central public administration authorities, 53% considered that the staff evaluation procedure is transparent and objective, while 28% said that it is not transparent and objective.

293 State Chancellery (2015), Report on Public Position and Status of Civil Servants, Annex 6.

294 Ibid. Annex 4.

295 The ratio between the lowest grade (first salary step) and the highest grade (fifth salary step) is just 1/4.6. This is relatively low, given that there are 23 grades, each of them consisting of 5 to 9 salary steps.

296 State Chancellery (2015), Report on Public Position and Status of Civil Servants, Annex 4.

297 Ibid. Annex 5. In 2014, 26 civil servants were dismissed in application of Article 64 of the Law, which includes bad performance appraisal results among other causes for dismissal.

Principle 7: Measures for promoting integrity, and preventing corruption and ensuring discipline in the public service are in place.

A strategic document encompassing integrity, promotion and corruption prevention was approved in 2011, but was only valid until 2015[298]. Different pieces of primary and secondary legislation cover all the relevant dimensions related to integrity issues[299]. In addition to this, some guides have been produced[300].

Implementation of these pieces of legislation takes place through training[301] and through the activities of the National Integrity Commission[302] and the National Anti-corruption Centre[303], the main bodies in charge of ensuring the infrastructure for integrity in the public sector.

The Code of Conduct for Civil Servants applies to civil servants with general status and is complemented by sector codes of ethics, such as the code of conduct for employees of the National Anti-Corruption Centre. Training[304] and promotion[305] of the Code of Conduct for Civil Servants have taken place, but according to Transparency International research[306], the content of the code has not been well communicated to all civil servants.

Regulation on conflict of interest[307] is being monitored. From January to September 2015, the National Anti-corruption Centre documented 21 cases of non-declaration of a conflict of interest[308]. The National Integrity Commission also identified 84 potential cases of violation of the legal framework for conflict of interest and issued a decision on 28 violations[309].

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298 National Anti-corruption Strategy for 2011-2015, approved by Decision of Parliament No. 154 of 21 July 2011. It may be prolonged for one more year, but at the end of 2015, that decision had not yet been taken. The secretariat of the monitoring group for the strategy is in the National Anti-corruption Agency.

299 Law No. 158/2008 on the Public Office and Status of Civil Servants; Law No. 25/2008 on the Code of Conduct for Civil Servants; Law No. 16/2008 on Conflict of Interest; Law No. 1264/2002 on Declaration and Control of Income and Ownership by the State Dignitaries, Judges, Prosecutors, Civil Servants and Certain Persons Vested with Managerial Functions; Law on Professional Integrity Testing No. 325/2013; Government Decision No. 707/2013 for approving the regulatory framework on whistle-blowers' integrity; Government Decision No. 201/2009, Annex No. 7 on the disciplinary commission; Government Decision No. 134/2013 on record keeping, evaluation, storage, use and redemption of symbolic gifts, courtesy or protocol related gifts; Law No. 90/2008 on Preventing and Fighting Corruption; Law No. 252/2013 on the Organization and Functioning of the Probation System; and Government Decision No. 767/2014 on professional integrity testing.

300 Guides on "The implementation of the Code of Conduct for Civil Servants" and "Application of Disciplinary Sanctions to Civil Servants".

301 For instance, training on conflict of interest provided by the Academy of Public Administration .

302 Created through Law No. 180/2011.

303 Created through Law 1104/2002 on the National Centre for Combating Crimes and Corruption, later designated the National Anti-Corruption Centre.

304 SIGMA (2014), *Civil Service Professionalisation in Armenia, Azerbaijan, Georgia, Moldova and Ukraine* and State Chancellery (2015), *Report on Public Position and Status of Civil Servants*. Regarding training, all central public authorities have taken measures to familiarise officials with the provisions of the Law on the Code of Conduct for Civil Servants and the Law on Conflict of Interest. Apart from this, the Academy of Public Administration organises and conducts courses for professional development of staff and new incumbents that cover, for example, the topic of conflicts of interest.

305 The State Chancellery published the Methodological Guide on the Application of the Code of Conduct for Civil Servants in the Republic of Moldova on 20 September 2013.

306 Transparency International (2014), *Monitoring Conflict of Interest in Moldova*. According to the survey conducted by Transparency International Moldova in 2013, only one-third of the officials interviewed confirmed that they have attended training on public ethics, handling conflicts of interest and declaration of income and assets.

307 CSL, Articles 24 and ff.; Law No. 16/2008; Law No. 25/2008 on the Code of Conduct for Civil Servants , Article 12.

308 As a result of the examination of these cases, final decisions were adopted to apply fines for a total amount of MLD 10 000, but only MLD 2 000 was paid, showing that the system of sanctions is not very effective.

309 National Integrity Commission (2015), Activity Report for 2014.

Incompatibilities and restrictions of civil servants are also established[310]. In 2014, the National Integrity Commission identified 42 potential cases of violation of the legal framework for incompatibilities and restrictions (out of the 354 cases it investigated), and it issued decisions on 22 cases[311].

Furthermore, the National Anti-Corruption Centre initiated tests of the integrity of civil servants between August 2014 and April 2015[312], and it has also been active in monitoring integrity plans of selected public entities. [313]

Law 1264/2002 provides the methodology for collecting declarations of income and property and other aspects of financial disclosure. The National Commission for Integrity initiated 354 controls in 2014 and found 85 violations of the legal framework[314].

The legislative framework also includes restrictions related to post-employment in critical areas[315], restrictions regarding secondary employment[316], and the acceptance of gifts[317]. However, research shows that many civil servants are not aware of those provisions[318].

The perception of corruption is still high. Moldova occupies position 103 in the 2015 Corruption Perceptions Index of Transparency International, with a score of 35 out of 100 on a scale of 0 (highly corrupt) to 100 (very clean)[319]. The National Anti-corruption Centre has identified a considerable and increasing number of corruption cases over the years. In the whole public sector, 668 crimes were detected in 2014, an increase of 17.4% from 2013[320]. The number of civil servants that have been criminally convicted also rose, from 38 in 2013 to 93 in 2014[321].

As all necessary elements of the system are in place but mechanisms do not fully work in practice, the value of the indicator for the extent to which the integrity and anti-corruption system of the public service are in place and applied in practice is 3.

The regulation on disciplinary actions includes disciplinary, civil, administrative and penal responsibility for misconduct or misbehaviour of civil servants; 12 types of misbehaviours with an open clause; 6 explicit sanctions; the process on how to apply disciplinary penalties by a disciplinary committee; and the appeal process[322]. However, the provisions, do not include an explicit right to receive legal assistance. Another shortcoming of the legislation is the very short period (a maximum of 6 months after committing an offence) during which disciplinary sanctions can be applied. This makes it very difficult to punish civil servants for some offences. The number of sanctioned civil servants has increased from 219 in 2012 to 259 in 2014 (2.6% of the total number of civil servants)[323].

310 Law No. 16/2008 on Conflict of interests and the Law No. 158/2008, Section 3, Article 19.

311 National Integrity Commission (2015,) Activity Report for 2014. The reports states that these cases affect both civil servants and non-civil servants.

312 Implementation of integrity tests was stopped because the Law no 325/2013 on Testing of Professional Integrity was declared unconstitutional by judgement No. 7/2015 of the Constitutional Court.

313 *Centrului National Anticoruptie* (2015), *Raport de Activitate. Perioada*: *2014* [Activity Report of the National Commission for Integrity, 2014].

314 Ibid.

315 Law No. 16/2008, Article 20.

316 CSL, Article 25.

317 Law No. 16/2008, Article 23; Law No. 25/2008, Article 11; and Government Decision No. 134/2013.

318 Transparency International (2014), *Monitoring Conflict of Interest in Moldova*, p. 23. According to the survey, 74% of civil servants declared that there were no restrictions on post-employment.

319 Transparency International (2015), Corruption Perceptions Index of 2014.

320 *Centrului National Anticoruptie (2015) Raport de Activitate pentru anul* 2014.

321 http://instante.justice.md.

322 CSL, Articles 56-60.

323 State Chancellery (2015) Report on Public Position and Status of Civil Servants, Annex 6.

In light of these concerns, the value of the indicator for the extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions is 3.

Considerable efforts have been exerted to promote integrity in the civil service and avoid corruption. Legislation and training are in place to disseminate and discuss good practices in different areas. However, civil servants are only moderately familiar with some key concepts of the legislation, and perception of corruption in the system is very high. Disciplinary sanctions are regulated and are applied, when possible, within the very short time frame allowed after the offence has been committed.

Key recommendations

Short-term (1-2 years)

1) The State Chancellery should undertake appropriate measures to increase the objectivity of performance appraisals. This could include, for example, organising training for management-level civil servants and increasing involvement of HR units in the process of performance appraisals.
2) The Government should speed up the process of filling the vacant positions of State Secretaries.
3) The Government should prepare amendments to the legislation to strengthen the role of State Secretaries by assigning them overall responsibility for management of the authority, including human resource management.

Medium-term (3-5 years)

4) The Government should prepare changes to the legislation in order to:
    a. ensure that all external recruitments and promotions are merit-based;
    b. enhance the protection of civil servants against unjustified dismissals;
    c. improve the pay system and ensure its full implementation;
    d. remove the minimum obligatory number of annual training days for civil servants.

4
Accountability

ACCOUNTABILITY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-2015

1.1. State of play

The legislative framework concerning the organisation of the state administration is fragmented and inconsistent. Some sector laws have assigned core administrative functions to state-owned enterprises (SOEs) that are not subject to laws regulating state administration. The rationality of the state administration's structure is not subject to regular review based on consistent criteria. The creation of new administrative bodies is not preceded by comprehensive analysis based on uniform methodology. A scheme to manage the performance of administrative bodies under the authority of ministries is established, but not fully operational.

Legislation on access to public information is in place, but it does not cover the composition of the public information that should be proactively disclosed by the administration, and responsibility for monitoring the implementation of the law has not been assigned to an institution. There is therefore no statistical data on this matter, nor is proactive disclosure of public information or raising public awareness about the right of access to information ensured. The legislation on the People's Advocate institution meets international standards, but the institution has not reached full operational capacity after significant reorganisation started in 2014.

The efficiency of courts measured by clearance rate and total backlog has improved, although it is not reflected in the level of citizens' trust into judiciary, which is extremely low. Modernisation of the judicial system, including the administrative justice system, is hampered by a lack of co-ordination between the main actors – the Superior Council of Magistrates and the Ministry of Justice (MoJ).

Provisions establishing the right to seek compensation for damage caused by administrative actions or omissions do not provide for a clear and comprehensive mechanism of public liability. Evidence of their practical implementation is missing as no single institution is responsible for monitoring this issue.

1.2. Main developments

The People's Advocate institution is undergoing major transformation following the new Law on the People's Advocate[324]. The Centre for Human Rights, represented by four independently acting parliamentary advocates, has been replaced by the People's Advocate Office, consisting of an Ombudsman with a general mandate and a Special Ombudsman for the protection of children's rights.

In March 2015, the Superior Council of Magistrates established a project for the specialisation of judges in administrative, civil and commercial cases in three courts[325]. A new version of the Integrated Case Management System for the courts was piloted in 2015 and has been already implemented in all courts[326]. The purpose of it is to eliminate the arbitrary distribution of cases to judges.

[324] Law No. 52 on the People's Advocate, Official Gazette Nos. 110-114/2014.

[325] Superior Council of Magistrates Decision No. 235/2010.

[326] Information provided by the Ministry of Justice in February 2016.

2. ANALYSIS

This analysis covers the five Principles of Public Administration that serve as indicators of the key requirement for accountability[327]. For this key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles refer to various dimensions of public accountability, including the overall organisation of the government; arrangements regarding internal administrative appeal and administrative justice, and the functioning of independent oversight bodies. The Principles also cover the legislative framework for access to public information.

2.1. Key requirement: Proper mechanisms are in place to ensure accountability of state administration bodies, including liability and transparency.

Baseline values

The system of accountability for the institutions of the state administration is examined through a mixed set of indicators, both quantitative and qualitative. They cover all areas of accountability, including the internal organisation of the state administration; oversight of administrative appeals and access to public information; status and activities of independent oversight institutions and administrative courts; parliamentary scrutiny; and public liability. The indicators developed for each Principle relating to accountability are intended to assess not only the legislative framework, but also its practical implementation.

The values given reflect the fact that legislation setting up the organisation of state administration is in place, but it is inconsistent and does not create a system of results-oriented management. Access to public information is guaranteed under the applicable legislation, but proactive disclosure of public information is not centrally monitored. The People's Advocate institution is functioning and its recommendations are largely implemented. The administrative justice system is relatively efficient, yet modernisation of the judicial system is hampered by a lack of co-ordination between major actors. Public liability is also regulated, but there is no data to verify how it is working in practice.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2015	3
	2	Extent to which the right to access public information is enacted in legislation and applied in practice.	2015	2
	3	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	2015	3
	5	Extent to which public authorities assume liabilities and guarantee redress.	2015	1
Quantitative	1	Number of bodies reporting to the Council of Ministers, to the Prime Minister or to the Parliament.	2014	15

[327] SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 57-65.

	1	Average number of hierarchical layers in a typical ministry.	2014	4[328]
	2	Share of public information requests refused in a given year by the public authorities.	2014	Not available[329]
	2	Share of public information requests refused in a given year by the supervisory authority.	2014	Not available[330]
	2	Share of public information requests upheld by the courts.	2014	Not available[331]
	2	Share of public authorities maintaining websites in line with regulatory requirements.	2014	Not available[332]
	2	Share of public authorities maintaining a document registry and database.	2014	Not available[333]
	3	Percentage of citizens who have trust in the People's Advocate institution(s).	2014	Not available[334]
	3	Share of oversight institutions' recommendations to state administrative bodies implemented within two years.[335]	2014	80%[336]
	4	Number of administrative court cases ruled per year per judge.	2014	Not available[337]
	4	Number of complaints submitted to the administrative court in a given year	2014	6419
	4	Percentage of cases changed or returned for verification by the higher court.	2014	21,1%
	4	Percentage of citizens who have trust in the court system.	2015	15%[338]
	4	Backlog of administrative cases.	2014	3334

328 Minister, deputy ministers, state secretary, directorates/services.

329 There is no institution responsible for collecting statistical data on this matter.

330 There is no institution responsible for collecting statistical data on this matter.

331 There is no institution responsible for collecting statistical data on this matter.

332 Data was not provided by the administration. There is no body monitoring this issue.

333 Data was not provided by the administration. There is no body monitoring this issue.

334 No credible, up-to-date survey was found.

335 Relates to the Ombudsman only.

336 Data provided by the People's Advocate institution.

337 There are no administrative courts, and all judges in the first instance courts deal with both civil and administrative cases (no specialisation of judges).

338 Institute for Public Policy (2015), "Barometer of Public Opinion about the socio-political situation before the local elections", http://www.e-democracy.md/en/monitoring/politics/comments/bop-alegeri-locale-2015/. The survey was conducted 28 March-7 April 2015 on a representative sample of 1 100 respondents.

	5	Share of complaints resulting in payment of compensation.	2014	Not available[339]

Analysis of Principles

Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.

The institutional set-up of the state administration is enacted primarily in the Law on the Government[340] and the Law on Specialized Central Administration (LSCA) [341]. These regulations overlap, for example in terms of specifying the status and rules of operations of ministries, the State Chancellery and other administrative bodies. Furthermore, the legislative framework is fragmented, as the above-mentioned laws do not cover SOEs that also perform administrative functions such as issuing passports and vehicle licences. SOEs are subject to special regulations.

The bureaucratic model of regulation represented by detailed provisions regarding the tasks of the administrative authorities and the internal management of ministries and other bodies is characteristic of the LCSA. This hampers the flexible management of the administrative apparatus and creates an obstacle to innovative managerial arrangements.

The classification of administrative bodies is clear and comprises autonomous administrative authorities, agencies under the authority of the ministries and state inspectorates performing internal control. The number of bodies under the direct authority of the Parliament, the Council of Ministers or the Prime Minister is limited. Policy making functions remain in the ministries, while operational functions are assigned primarily to the agencies.

The establishment of new administrative bodies is not preceded by comprehensive assessment of the need for new institutions, the efficiency of the planned organisational structure or the management scheme. The current structure of the state administration is not subject to regular review in terms of rationality, performance and cost-effectiveness.

The performance management mechanism for state administration bodies is under development. It consists of annual plans and reports on their implementation. This scheme provides ministries with instruments for steering and controlling subordinated bodies. However, it is not sufficient to create a results-oriented management culture, as annual plans and reports are primarily focused on outputs (documents, administrative acts, legislative proposals) rather than outcomes (measurable, qualitative improvements in the relevant policy area).

Considering the factors analysed above, the baseline value for the indicator on the overall structure of administration is 3.

The legislative framework on the organisation of state administration exists, yet it is inconsistent and fragmented. The classification of administrative bodies is clear. Separation between policy-making functions and executive tasks is reflected in the structure of the state administration. However, the rationality of the state administration's structure and the creation of new administrative bodies are not subject to review based on consistent criteria.

339 Data was not provided by the administration. There is no body monitoring this issue.

340 Law No. 64 on the Government, Official Gazette Nos. 131-133/1990.

341 Law No. 98 on Specialized Central Administration, Official Gazette Nos. 160-164/2012.

Principle 2: The right to access public information is enacted in legislation and consistently applied in practice.

The right of access to public information is generally enshrined by the Constitution[342]. The Law on Access to Information (LAI)[343] provides specific rules for disclosing public information to interested parties. The definition of public (official) information is broad and the scope of available exemptions from disclosure is narrow[344]. The burden of proof in such cases lies on the holder of the information, who is required to prove that the requested information falls under statutory exceptions.

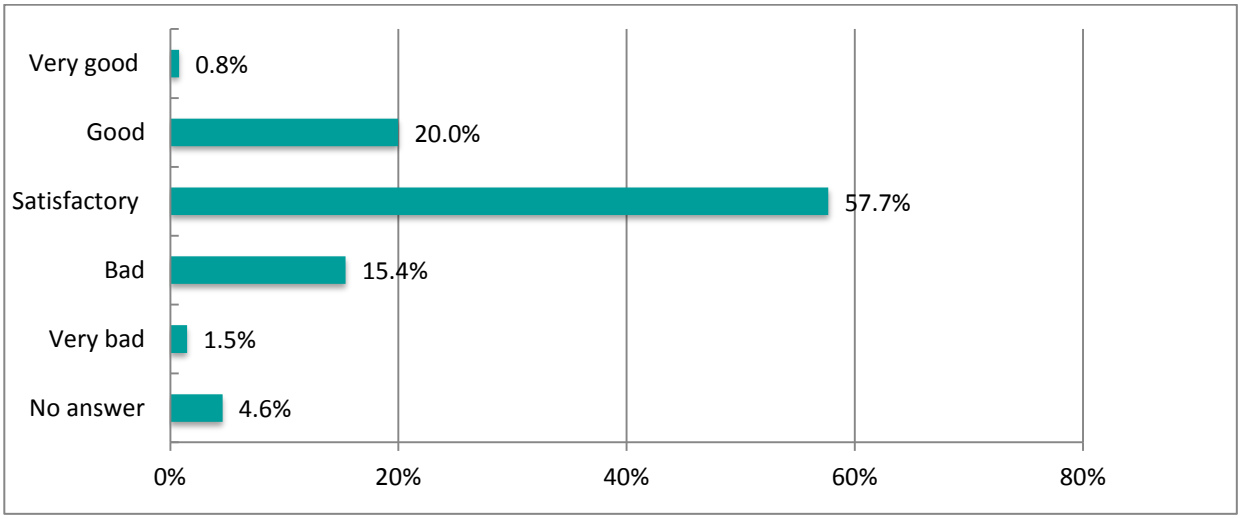
Applicants are not required to provide justification for their requests for access to information, and information should be provided in the form requested by the applicant[345]. Public information requests should be handled within 15 days, with possible extension to an additional five days in cases specified by the LAI[346].

Fees might be imposed to cover the costs of finding and processing the information requested, copying documents, translating them and sending them to the applicant. However, there are neither fixed rates for the fees nor detailed rules for their calculation. According to the LAI, information should be offered free of charge if it is considered that sharing it with the public would increase the transparency of the institution in question[347].

In the case of a refusal to share information, the applicant must be informed of the grounds for refusal and the right to appeal. The appeal can be submitted to a higher administrative body or directly to the court, which may order that access to the information[348] be provided.

There is no institution responsible for monitoring implementation of the LAI's guarantees of access to information and aggregating statistical data on the number of public information requests submitted, accepted or refused by state administration bodies. Therefore, it is difficult to assess the application of the LAI in practice. It should be noted, however, that a survey conducted in 2013 among civil society organisations showed that access to information remains a challenge (Figure 1).

Figure 1. Access to information of public interest at central level (2013)



Source: L. Chiriac. and E. Tugui (2014), *Civil Society Organisations from the Republic of Moldova*, European Commission, Chisinau.

342 Article 34.

343 Law No. 982 on Access to Information, Official Gazette Nos. 88-90/2000.

344 Ibid. Article 7.

345 Ibid. Article 12.

346 Ibid. Article 16.

347 Ibid. Article 20.

348 Ibid. Articles 21-23.

Provisions regarding proactive disclosure of public information remain weak. The LAI does not include a detailed catalogue of information to be published by information holders on their websites. There is no institution responsible for monitoring, facilitating and stimulating proactive disclosure of information. However, the Government's Open Data Portal, launched in 2011, offers access in one location to a certain amount of primarily statistical data, produced by central government bodies[349].

The document registries have to be maintained in accordance with the Law No. 71 on Registries[350], yet there is no institution responsible for monitoring compliance in this matter.

In light of these concerns, the baseline value for the indicator on the mechanisms guaranteeing access to public information is 2.

The LAI establishes procedural guarantees of the constitutional right of access to public information. However, it fails to establish a mechanism for monitoring implementation of the right to information and promoting proactive disclosure of information.

Principle 3: Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.

The People's Advocate (Ombudsman) is not a constitutional body. The mandate of the two People's Advocates formulated in the Law on the People's Advocate generally meets international standards and includes both protection and promotion of human rights[351]. All public and private institutions are subject to the oversight of the People's Advocate institution[352]. According to the Law, private entities are subject to oversight even if they do not perform public functions, which creates an excessive burden on private individuals that is incompatible with the international standards for People's Advocate institutions.

The necessary guarantees of independence of the People's Advocate institution are in place, particularly that of reporting solely to the Parliament on an annual basis[353]. The financial autonomy of the People's Advocate institution is formally guaranteed, as it submits budgetary proposals directly to the Parliament, but it suffers from scarce resources. The building housing the People's Advocates' office does not meet technical standards and – according to external auditors - its continued used might be dangerous[354]. In the 2015 budget, funds were allocated for acquiring new premises, but due to financial constraints the Ministry of Finance (MoF) has refused to release these funds[355].

The catalogue of the People's Advocates' competences is extensive and goes beyond the minimum standards set up in international documents. The People's Advocates may initiate cases both upon request of an interested party and on their own initiative by right of their office[356]. However, only natural persons are allowed to submit complaints[357]. There are no provisions guaranteeing this right to legal persons. The Advocates have unrestricted access to information, documents and premises of public and private institutions, when it is necessary for investigating human rights violations[358]. Moreover, they may initiate court proceedings in cases of serious violations of human rights, submit cases to the Constitutional Court and propose amendments to the legislation regarding human rights[359].

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349 http://data.gov.md/en/.

350 Law No. 71 on Registries, Official Gazette Nos. 70-73/2007.

351 Law No. 52/2014, Article 16.

352 Ibid. Article 18.3.

353 Ibid. Article 29.

354 Centre for Human Rights of Moldova (2015), *Observance of Human Rights in the Republic of Moldova in 2014*, CHRM, Chisinau.

355 Letter of the MoF to the People's Advocate institution dated 1 July 2015.

356 Law No. 52/2014, Article 22.

357 Ibid. Article 18.1.

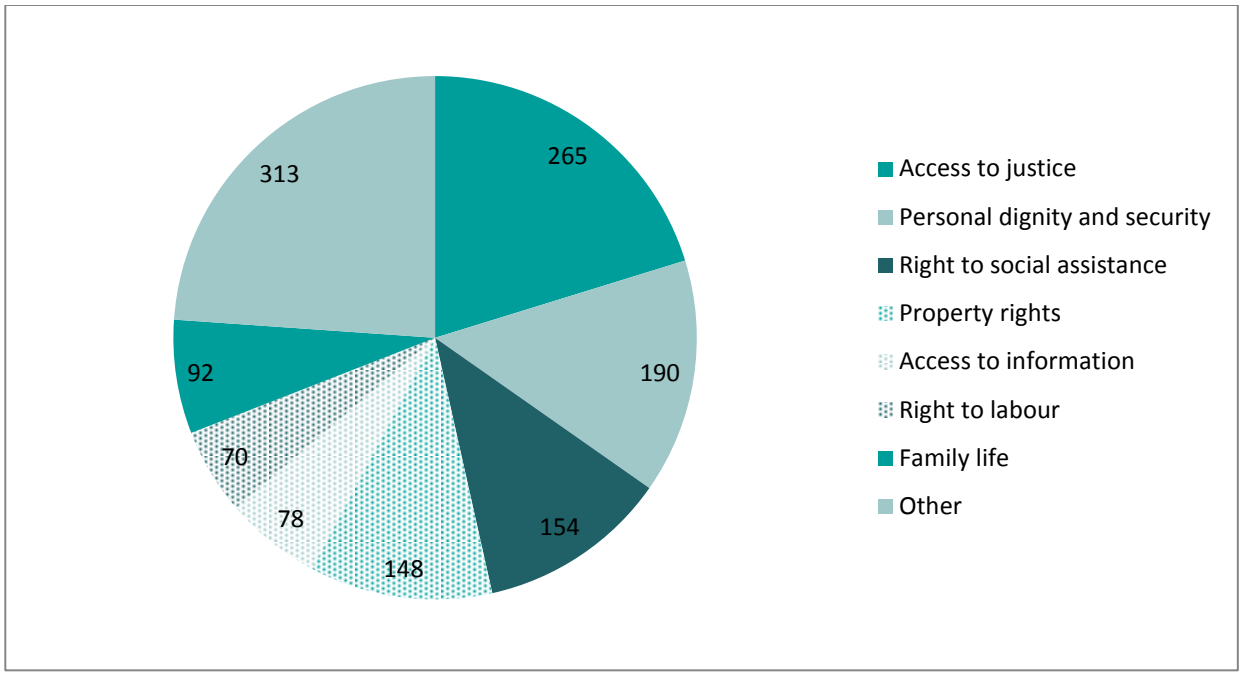
358 Ibid. Article 11.

359 Ibid. Article 26.

The reform of the People's Advocate institution is still pending. The organisational structure of the Institution and job descriptions for the staff are being prepared, and around half of the planned staff members have been recruited. This means that the institution is not yet fully operational. The People's Advocate for children's rights has not been appointed yet.

The number of complaints submitted to the People's Advocate institution and the number of submissions addressed to public and private institutions have been decreasing slightly over the past three years. Of the complaints submitted to the People's Advocate institution, the highest concentration concerned access to justice (Figure 2)[360]. This shows the need for raising awareness among citizens about human rights protection mechanisms. The most common form of intervention is a recommendation issued to the relevant authority, indicating the mitigating measures necessary in the case of a human rights violation (41% of interventions in 2014)[361].

Figure 2. Major topics of complaints submitted to the People's Advocate office (2014)



Source: Centre for Human Rights of Moldova (2015), *Observance of Human Rights in the Republic of Moldova in 2014*, CHRM, Chisinau.

The annual reports of the People's Advocate institution are published on its website[362]. However, these reports do not contain information on the share of Ombudsman's recommendations implemented. According to the Ombudsman's Institution, the implementation rate is increasing, although there is no procedure for systematically monitoring implementation of the recommendations.

360 Centre for Human Rights of Moldova (2015), *Observance of Human Rights in the Republic of Moldova in 2014*, CHRM, Chisinau.

361 Centre for Human Rights of Moldova (2015), *Observance of Human Rights in the Republic of Moldova in 2014*, CHRM, Chisinau. Other forms of intervention include: joining the courts' proceedings, submitting requests for initiating disciplinary proceedings against civil servants, complaints to the Constitutional Court and requests to the Parliament for necessary amendments to legislation.

362 http://www.ombudsman.md.

Table 1. Statistical data on the operations of the People's Advocate institution (2013-2014)

	2013	2014
Number of complaints received	1 587	1 310
Number of interventions	270	241
Share of recommendations implemented[363]	46%	80%

Source: Annual reports of the People's Advocate institution for 2013 and 2014; Information received from the People's Advocate office.

Based on the above, the value in the area of checks and balances is 3.

Legislation on the People's Advocate institution meets international standards. The Ombudsman enjoys extensive powers. The level of implementation of the Ombudsman's recommendations is increasing; however, the reform of this institution has not been completed yet, which hampers its operational capacity.

Principle 4: Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.

The right to administrative appeal is enshrined by the Law on Administrative Litigation (LAL)[364]. There are no specialised administrative courts of first instance, and administrative cases are handled by the courts of general jurisdiction. The Justice Sector Reform Strategy for 2011-2016 provides for consideration of the creation of separate administrative courts[365], the first step of which has been a feasibility study produced with the support of international donors. It concluded that the current workload of administrative cases does not justify establishing separate administrative courts[366]. The decision on how to proceed has not been taken yet. However, the specialisation of judges in administrative cases is being piloted in three courts[367].

There is a well-established and fully operational electronic case management system in place (ICMS – Integrated Case Management System). Among other functions[368], the ICMS ensures random distribution of cases to judges based solely on workload and complexity, and does not allow for arbitrary decisions by the court authorities.

Judges are supported by legal assistants. Judges and support staff in the courts also have access to training provided by the National Institute of Justice, which is planned following a systematic training needs assessment. The workload of the courts is monitored by the Superior Council of Magistrates, who may temporarily relocate judges among the courts in the case of increasing backlog.

Moldovan courts are relatively efficient in dealing with new cases (Figure 2) and resolving the vast majority of them within one year (Figure 3). However, the clearance rate[369] is still below the desirable level, although the situation has improved since 2014.

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363 This refers only to recommendations in individual cases, excluding, for example, recommendations regarding amendments to the legislation.

364 Law No. 793/2000 on Administrative Litigation, of 10 February 2000, Official Gazette Nos. 57-58/2000, Article 3.

365 The Justice Sector Reform Strategy for 2011-2016, Official Gazette Nos. 1-6/2012.

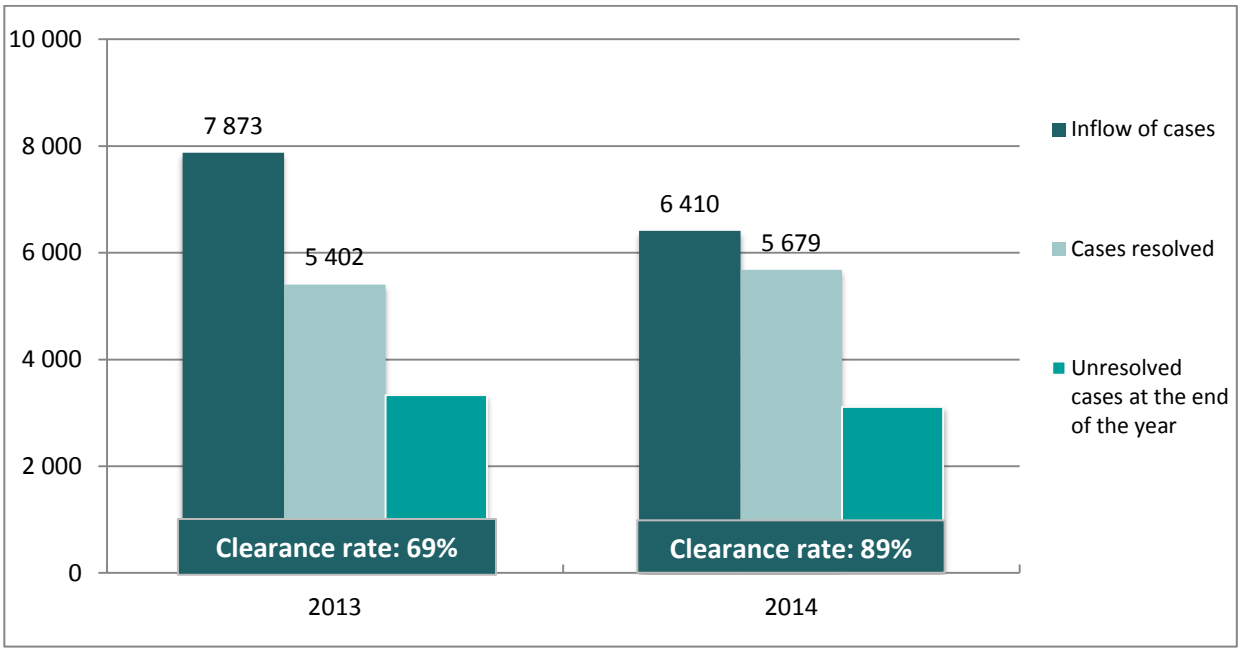
366 Legal Resources Centre from Moldova (2014), *Specialisation of Judges and Feasibility of Creating Administrative Courts in the Republic of Moldova*, Legal Resources Centre from Moldova, Chisinau.

367 As mentioned in the "Main developments" section.

368 E.g. publishing court decisions, managing enforcement procedures, measuring performance and functions related to human resources management (United States Agency for International Development [USAID] [2015], "The assessment report of the courts of law in the Republic of Moldova", Report no. 2, September, USAID, Washington, DC).

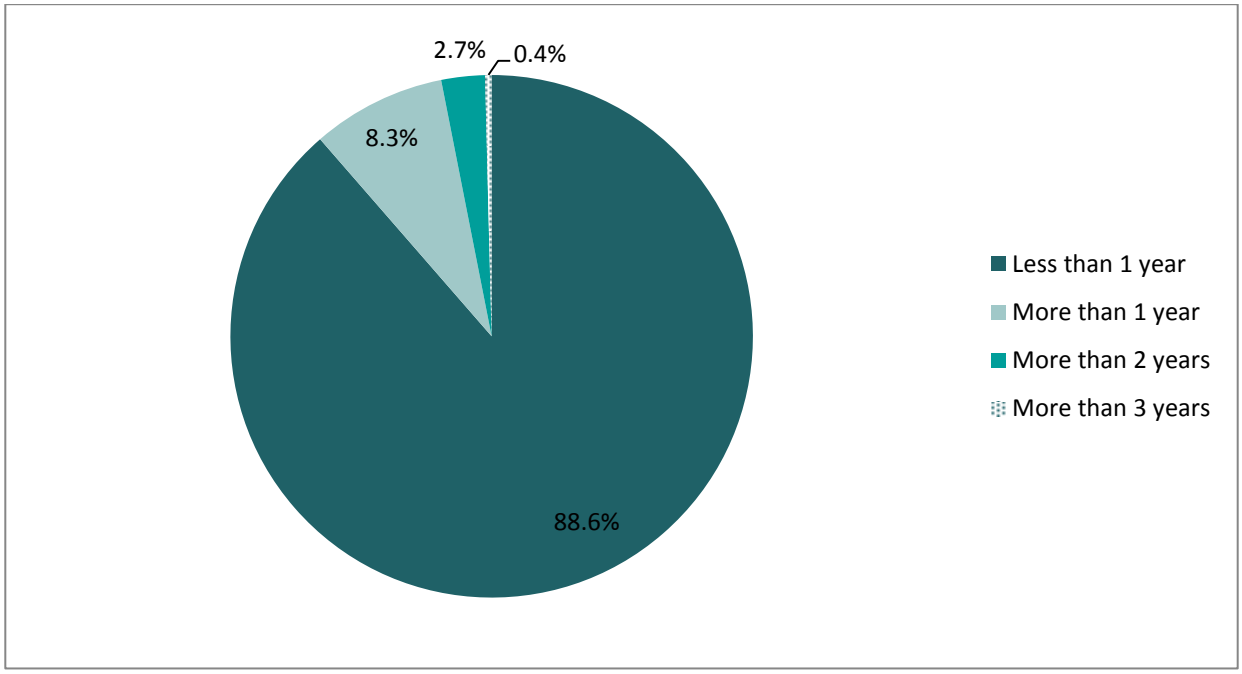
369 European Commission for the Efficiency of Justice (CEPEJ) (2014), *European Judicial Systems – Edition 2014 (2012 Data): Efficiency and Quality of Justice*, CEPEJ, Strasbourg, p. 191. This indicator is commonly used to measure the

Figure 3. Statistical data on the workload of the first instance courts with regard to administrative cases (2013-2014)[370]



Source: Data provided by the Department of Judicial Administration.

Figure 4. Duration of administrative cases in the courts of first instance (first half of 2015)



Source: Data provided by the Department of Judicial Administration.

Trust in the judiciary is very low. The Gallup World Poll 2013 shows that only 11% of Moldovans express confidence in the judicial system, while 70% of them do not trust the courts. This is less than

efficiency of courts. According to the CEPEJ definition, the clearance rate is calculated by dividing the number of resolved cases by the number of incoming cases. If the clearance rate goes below 100%, the backlog at the end of a reporting period increases. Courts with a clearance rate below 90%, and certainly below 80%, are expected to have significant problems with backlog increase.

370 Note that the difference in figures is due to number of cases withdrawn or not accepted by the courts.

half of the regional average for the former Soviet Union countries[371]. The Barometer of Public Opinion 2015 brought slightly better results, although trust in the judicial system decreased between 2008 and 2015 from 25% to 15%[372].

This issue needs to be addressed by accelerating efforts for judicial reform. However, the functions of planning and implementing reforms are not performed in an effective manner due to the lack of a proper institutional set-up and clear distribution of responsibilities. While the Superior Council of Magistrates plays a key role in the management of the court system, including resources, it does not have the analytical capacity to develop modernisation strategies. The MoJ sets the reform agenda and drafts legislation, but lacks the capacity to monitor implementation of the reforms or to develop strategic initiatives for improving judicial performance.

An illustration of the lack of co-operation among major actors is the conflict over the status of the Department of Judicial Administration. This body is under the authority of the MoJ and collects statistical data about court performance, managing the ICMS. These functions are duplicated by the Superior Council of Magistrates, which monitors the workload of the courts and may temporarily reallocate judges in case of need. As a result, the Council has demanded the inclusion of the Department into its own office.

The efficiency of the courts with regard to administrative cases is relatively high, although public trust in the judiciary remains extremely low. The modernisation of the judicial system, including the management of administrative cases, is being undermined by inadequate accountability for judicial reform and the lack of co-ordination among the major actors.

Principle 5: The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.

The Constitution enshrines the principle of state liability for damage caused by administrative action or inaction [373]. More specific rules for seeking compensation are established by the LAL. According to the LAL, while considering an administrative case, the court – acting upon the applicant's request - may order the administrative authority concerned to pay compensation for material or non-material damage caused by an unlawful administrative act or by failure to resolve the case within the statutory deadline[374]. The burden of proof lies both on the applicant and the relevant administrative body[375].

The procedural regulation is incomplete, as the LAL does not provide criteria for calculating compensation. Furthermore, it is not clear if the liability scheme applies only in the case of a culpable breach of duty by a civil servant or in the case of any unlawful action or omission. Finally, it is not specified if the compensation should cover damages for both direct loss (*damnum emergens*) and loss of expected profits (*lucrum cessans*).

There is no information available on the number of public liability requests submitted to the courts, the number of cases in which the compensation was paid or the total amount of compensation paid. This results from the fact that there is no institution responsible for aggregating data in this matter. Therefore, no data exists to assess whether the system of public liability is working in practice.

Based on the above, the baseline value set for the indicator on public liability is 1.

The legal framework for public liability is in place and establishes general rules and the procedure for seeking compensation for wrongdoing by the state administration. However, there is no data

371 Gallup, *Confidence in Judicial Systems Varies Worldwide*, http://www.gallup.com/poll/178757/confidence-judicial-systems-varies-worldwide.aspx.

372 Institute for Public Policy, "Barometer of Public Opinion about the socio-political situation before the local elections", http://www.e-democracy.md/en/monitoring/politics/comments/bop-alegeri-locale-2015/.

373 Constitution of Moldova, Article 53.

374 Law No. 793/2000 on Administrative Litigation, of 10 February 2000, Official Gazette Nos. 57-58/2000, Article 25.

375 Ibid. Article 24.3.

available to allow assessment of progress on the implementation of public liability (for example, on requests for compensation or payments made by public institutions).

Key recommendations

Short-term (1-2 years)

1) The Government should introduce mechanisms for assessing the needs and costs of setting up new institutions and regular review of the cost effectiveness and efficiency of the current administrative structures.
2) The Parliament, following the Government's proposal, should introduce extensive amendments to the LAI, ensuring that:
    a. there is an institution responsible for monitoring implementation of the LAI, collecting statistical data in this matter, issuing binding recommendations and imposing sanctions in case of non-compliance;
    b. the types of information subject to proactive disclosure, primarily via websites of public institutions, are specified in the legislation;
    c. proactive disclosure of public information is monitored and promoted.
3) The People's Advocates should introduce comprehensive procedures for monitoring implementation of their recommendations, based on various sources of information such as communication with the applicant and requested administrative authority, on-site visits and expert assessments.
4) The Government and the Superior Council of Magistrates should establish a coherent governance scheme for the development and co-ordination of the judicial reform agenda, including the administrative court system. This arrangement should specify responsibilities for investigating the areas for improvement, developing innovative solutions, managing projects and co-operation with international donors.

Medium-term (3-5 years)

5) The Government should carry out a comprehensive review of SOEs performing administrative functions, and relieve them of such functions or include them in a comprehensive accountability scheme applicable to all state administration bodies.
6) The Government should review the existing regulation on public liability to ensure that the principles of liability and procedural rules for seeking compensation are clear and exhaustively regulated. The Government should also introduce institutional responsibility and a mechanism for monitoring court cases resulting in public liability.

5
Service Delivery

SERVICE DELIVERY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-2015

1.1. State of play

The policy for customer-oriented public service delivery is in place, but its application is weak and there is no organisational arrangement to ensure the implementation of reforms. Restructuring of public services has occurred in selected areas but is not systematically conducted or promoted. Digital service delivery is an exception, and it increasingly contributes to improving the quality of public services and the interoperability of government information systems. General take-up of digital services is still low but is growing quickly. Reforms of regulatory burdens on business have slowed during the recent political instability.

Good administration principles are enacted for businesses, but there is no effective or comprehensive framework to guarantee good administration for citizens. Legal provisions protect against maladministration of businesses, but no similar legislation exists for citizens. Administrative procedures are scattered around national legislation, and there is no code for their common regulation.

The central government has almost no effective mechanisms to raise the quality of public services across the administration. No institution is responsible for defining, promoting and monitoring the implementation of common service quality improvement standards, and little data is collected to document progress in this area. However, strong leadership in digital services development means that effective frameworks and tools are being applied in different service delivery areas to restructure a growing number of services.

Territorial service provision and business-oriented one-stop shops are well developed in some important areas, such as the issuing of passports, identity documents, vehicle registration and business registration. One-stop shops function well for business entities; individuals have access to a single government portal online, but there are no physical one-stop shops. Users with special needs face many challenges in accessing public services (and obtaining information about services), and the barriers are high for both physical and digital services.

1.2. Main developments

Moldova's current service delivery strategy is anchored in the Public Service Reform Programme 2014-2016. The Programme was developed with assistance from the World Bank, adopted by the Government in 2014[376] and is being implemented through consecutive Government Action Plans, the latest of which covers the 2015-2016 period.

The Strategy for Business Regulatory Framework Reform 2013-2020 outlines national priorities for administrative simplification. Its main focus is on "smart" regulation in order to move away from the overly quantitative indicators used in past regulatory reforms.

[376] Government Decision No. 122/2014.

2. ANALYSIS

This analysis covers the four Principles for the service delivery area which fall under one key requirement[377]. Baseline values are provided for the indicators of the monitoring framework of the Principles under this key requirement. The Principles cover the policy and practice of service delivery. Particular focus is placed on the strategic and legal framework for service delivery and on the standards for access and quality of services. The Principles also refer to the procedural guarantees of good administrative behaviour applicable to service provision.

2.1. Key requirement: Administration is citizen-oriented; the quality and accessibility of public services is ensured.

Baseline values

The policy and practice of service provision is examined through a set of 14 quantitative indicators, complemented by 3 qualitative indicators. The qualitative indicators primarily analyse the implementation of policies and legislation in the area of service delivery. Most of the quantitative indicators are based on data provided by the country and subsequently verified for the purpose of this report. Selected quantitative indicators are based on international comparative studies such as *Doing Business* and the *Global Competitiveness Report*.

Moldova does not fare well on indicators for general public service quality and transformation. Most notable is the absence of a comprehensive legal framework to enact basic citizen-oriented principles of good administration. For people with special needs, barriers to accessing most public services are high. At the same time, commitment and implementation are strong in the area of digital services development and the use of digitisation to transform public services.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which citizen-oriented policy for service delivery is in place and applied.	2015	2
	1	Extent to which policy and administrative preconditions for e-service delivery are applied.	2015	4
	2	Extent to which the legal framework for good administration is in place and applied.	2015	1
Quantitative	1	Expenditure on general public services as a share of gross domestic product.	2014	1.27%
	2	Favouritism in decisions of government officials.	2014	2.2
	3	Percentage of users satisfied with public services.	2015	52%[378]

[377] SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 66-73.

[378] Share of users satisfied with public service provision in an institution.

	3	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	2015	0%
	3	Share of public servants directly engaged in service delivery who received training in the last two years.	2013-2014	8%
	3	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application.	2015	Not available[379]
	3	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	2015	Not available[380]
	3	Average number of days needed to set up a business.	2015	4
	3	Average cost of setting up a business.	2015	4%
	4	Number of one-stop-shops that provide the services for more than three different public institutions.	2015	6
	4	Number of services provided through one-stop-shops.	2015	Not available[381]
	4	Percentage of wheelchair-accessible institutions.	2014	33%[382]
	4	Share of citizens who submitted paperless/electronic/digital income tax statements last year.	2015	2.5%
	4	Share of companies that sent their tax declarations using the Internet.	2015	30%

379 Standard delivery time at the lowest fees is 30 days. Faster delivery is possible by paying a premium for delivery in 15 days, 10 days, 5 days, 1 day, 6 hours, or 3 hours. The service provider Registru does not collect information on the average time it takes for documents to be delivered.

380 There is no generalised information available because such information is not centrally collected. However, there is at least one government agency, the E-government Centre, which conducts a yearly customer satisfaction survey.

381 No comprehensive information was provided by the Moldovan administration.

382 Official press release of the Ministry of Regional Development and Construction Monitoring notes that not all of the ramps in place guarantee wheelchair access to the premises.

Analysis of Principles

Principle 1: Policy for citizen-oriented state administration is in place and applied.

The Public Service Reform Programme 2014-2016 is a thorough and well-balanced policy document providing strategic orientation through a comprehensive problem statement, meaningful objectives and indicators, implementation timelines, cost estimates and monitoring provisions. Short-term action plans are regularly developed, the latest being for the period 2015-2016[383]. The State Chancellery is responsible for implementation of the Programme.

No institution currently establishes, enforces or monitors service delivery standards across the Government. The State Chancellery has not set up an organisational unit to co-ordinate service delivery reforms across all government departments – despite this being one of the enabling actions foreseen under the 2014-2016 Programme. As a result, many challenges to the harmonisation and improvement of public service quality persist.

Digital service delivery reforms are much better co-ordinated and implemented. Priorities for government digitisation are laid down in three main documents: 1) the Public Service Reform Programme 2014-2016, which includes a major component on digital public services; 2) the "Digital Moldova 2020" strategy, stewarded by the Ministry of Information Technology and Communications but with the State Chancellery largely responsible for government digitisation; and 3) the World Bank's Governance e-Transformation Project, which the Moldovan Government translates into specific national policies – notably the 2011 "e-Transformation" programme[384].

The E-Government Centre, a semi-autonomous body within the State Chancellery, is responsible for co-ordinating and implementing digitisation projects. Its director is Moldova's official Government Chief Information Officer and advisor to the Prime Minister[385]. The Centre was established in 2010 as part of the World Bank's Governance e-Transformation Project, which continues to fund a large part of its activities. The Centre has proven a capable co-ordinator and driver of service delivery reforms. Successful restructuring and increasing implementation of several digital government services are evidence of support for digitisation and its impacts (see Principle 4).

The E-Government Centre has signed agreements to pilot the interoperability platform "MConnect" with 19 central government institutions for a total of 60 data exchange projects. In areas where interoperability already exists, the benefits are visible: for example, the State Tax Service pre-filled 38% of personal income tax declarations with salary data obtained from employers, reducing the declaration burden for citizens and helping to prevent errors or fraud.

Administrative simplification and service delivery improvements targeting businesses have resulted from major government attention. Regulatory Impact Assessments (RIAs) have existed since 2006 and a common methodology for RIAs is in place[386]. The Parliament promulgated a Law on the Establishment of One-Stop Shops in 2011 as a means to improve service delivery to businesses[387]; it set the legal framework for various one-stop shops established since then (see Principle 4).

The Strategy for Business Regulatory Framework Reform 2013-2020 aims to improve Moldova's business climate by moving away from overly quantitative objectives – such as eliminating a given number of regulations – towards qualitative indicators for more comprehensive regulation. Detailed activities were laid out in an action plan for 2013-2015, but political instability has slowed the pace of reforms.

383 Government Decision No. 680/2015.

384 Government Decision No. 710/2011.

385 Government Decision No. 585/2015.

386 Government Decision No. 1260/2006.

387 Law No. 161/2011.

The Moldovan Government spent around 4.8% of the 2014 budget on general public services[388]. This is little compared with OECD countries, which spend on average 14% of their budgets on general public services[389].

Considering the factors analysed above, the qualitative indicator measuring the extent to which citizen-oriented policy for service delivery is in place and applied is assigned a value of 2. For the qualitative indicator measuring the extent to which policy and administrative preconditions for e-service delivery are applied, the baseline value is 4.

Policies and priorities for citizen-oriented service delivery are in place, but there is little progress on co-ordination and application across all government institutions. Digital service delivery is an exception, and concerted modernisation efforts in this area produce re-designed services and re-structured processes. Major regulatory reforms and the streamlining of services in the late 2000s resulted in improved business development and interaction with the public administration. However, major challenges for administrative simplification remain and the current political climate is not conducive to further reforms.

Principle 2: Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.

Moldova lacks the legislation and policy base necessary to establish a comprehensive body of good administration principles. There is no law on general administrative procedures; instead, individual laws – and subsequent government decisions – affirm a number of rights that citizens have when dealing with the administration, notably:

- The right to petition government, since 1994[390]. The law sets maximum response times and guarantees the right to judicial recourse in case of non-satisfactory answers or delayed responses. The law does not include monitoring provisions – neither on response times nor on application of the law across government.
- The right to meet the Prime Minister and other members of the Government[391]. Detailed information on days reserved for hearings at which citizens may meet and talk to the Prime Minister and other ministers is provided in the Government decision. However, it does not establish central responsibility for monitoring implementation of the decision.
- The right to transparency in government decision making[392]. This law gives citizens and organisations the right to obtain information and participate in the drafting of legal and policy documents. It also establishes the duties of public administration institutions in publishing information, consulting the public and handling feedback obtained from the public. No central monitoring is foreseen in the law.

Despite some progress through individual laws and policies, there are still major challenges regarding the transparency of decision making. In response to a 2010 report which found that transparency of decision making was not sufficiently upheld, the Government introduced more control and oversight by mandating the appointment of co-ordinators for transparency and consultation in each ministry[393]. As a result, each institution issues an annual transparency report on the number of information and consultation procedures conducted. Reporting follows a common methodology, but more centralised reporting is needed to increase public exposure and peer pressure on individual institutions.

Some monitoring is done by the Council for National Participation (CNP), a body that includes non-governmental organisations, although reports are not issued regularly. The latest report dates

388 MDL 1.4 billion of the MDL 29.3 billion government expenditures in 2014.

389 OECD (2015), *Government at a Glance 2015*, OECD Publishing, Paris.

390 Law No. 190/1994 of 19 July 1994, Official Gazette No. 628/2003.

391 Government Decision No. 689/2009.

392 Law No. 239/2008 of 13 November 2008, Official Gazette Nos. 215-217/2008.

393 Government Decision No. 96/2010.

from January 2014 and it confirms that lack of transparency remains a major challenge for citizens and organisations when interacting with the administration[394]. The CNP found that 47% of 1 460 items discussed in Government meetings during 2012 and 2013 did not satisfy the transparency requirements set by law.

For businesses, there is the Law on Basic Principles Regulating Entrepreneurial Activity[395]. This Law establishes the key principles of predictability, proportionality, transparency and recourse to review mechanisms in relations between businesses and the public administration. It applies to specific administrative decisions, such as issuing licences, registration of businesses and suspension of entrepreneurial activity. The Law therefore provides the grounds for businesses to challenge government decisions, although this is limited to the areas of application mentioned.

Considering the factors analysed above, the baseline value for the indicator on the extent to which the legal framework for good administration is in place and applied is 1. This is relatively low because good administration principles are applied to businesses in limited circumstances only.

An overarching law on general administrative procedures does not exist and there are few effective mechanisms to monitor and enforce principles, such as transparency in decision making. Good administration principles in some relations between the business sector and the Government are defined and largely applied. A concerted effort to define, implement and apply citizen and business safeguards against unjustified administrative decisions is needed. The current legal framework is uneven and not comprehensive.

Principle 3: Mechanisms for ensuring the quality of public service are in place.

The institutional void in co-ordination of service delivery reform (described under Principle 1) means that the Government cannot effectively define, promote or monitor service quality standards across all departments. Common tools or methodologies to ensure service quality improvements are neither in place nor applied.

The situation is similarly problematic for the collection of evidence on public service quality. Satisfaction surveys are not systematically applied. Little other data is available to establish baselines and monitor progress of service delivery improvements, even though this is foreseen in the 2014-2016 Public Service Reform Programme (through collection of data on service delivery volumes, costs and channel choices). The State Chancellery's monitoring and evaluation unit so far only collects data on activities – not achievements – under national strategies, including the 2014-2016 Public Service Reform Programme. Ministries report on those activities via a non-public portal[396].

Evidence suggests that citizens are not very satisfied with overall public service delivery. In 2011, the Government reported that "Moldovan citizens face a series of problems in accessing public services, such as corruption, bureaucracy and inefficiency of public institutions, long waiting at authorities' counters, poor communication and incomplete information about access to public services"[397]. A 2013 survey found that those problems persisted: over 50% of users said they could not obtain sufficient information about public services; over 30% of users were required to visit more than three institutions to complete a given service; and almost 50% of users reported that an informal payment had been requested as part of the service delivery process[398].

Considering these persistent challenges to public service delivery, it is encouraging to see significant progress being achieved through digitisation. The E-Government Centre and its partners across government develop the legal and technical frameworks for public service restructuring. The Centre

394 Available at: http://www.cnp.md/ro/produse/monitorizarea-politicilor/general/item/1864-rezolvarea-caren%C8%9Belor-transparen%C8%9Bei-decizionale-a-guvernului-republicii-moldova.

395 Law No. 235/2006.

396 https://monitorizare.gov.md.

397 Government Decision No. 710/2011.

398 Public Service Reform Programme 2014-2016, included in Government Decision No. 122/2014.

actively promotes the collection and use of service quality indicators to measure progress, for example yearly satisfaction surveys and detailed data on digital services. The Centre is in the process of compiling a catalogue of all services provided by the central public administration[399].

The Open Government Data Portal[400] is another instrument for public scrutiny of service quality. It provides over 880 datasets plus metadata. The information provided is little used so far, but this is not unusual at the initiation stage[401].

The E-Government Centre[402] organises training on public service transformation with partners. Over 3 500 public sector employees in central and local administrations have received general training on digitisation and public service restructuring, as well as specific training on issues such as the government cloud (MCloud) or the interoperability framework (MConnect).

Concerted efforts on digitisation show positive results. According to survey data, satisfaction with online services stood at 66% in 2015, compared with satisfaction with physically delivered public services of just over 50%[403]. Some services achieve high take-up rates (see Principle 4).

High satisfaction with online services has had only a limited impact on the perceived overall quality of public services in Moldova. This is because the share of service delivery transactions occurring exclusively via digital channels remained at only 4% over the past three years (the share of transactions that have an online component but then require physical interaction is higher, at 15%)[404]. Available data shows that popular take-up of digital services is still relatively low and concentrated among wealthier, highly educated, urban citizens.

399 https://servicii.gov.md/ServicesByLetter.aspx.

400 www.date.gov.md.

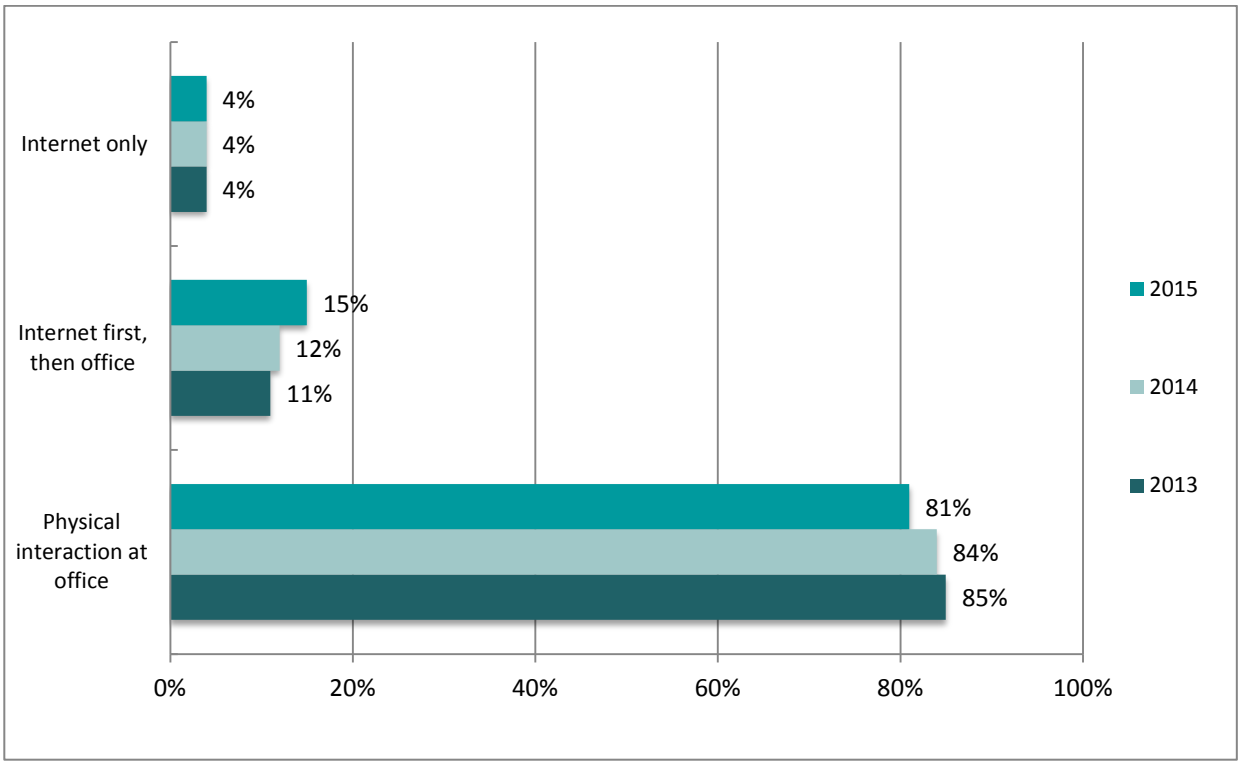
401 For example, OECD (2015), *Open Government Data Review of Poland: Unlocking the Value of Government Data*, OECD Publishing, Paris.

402 World Bank and the National Academy of Public Administration.

403 E-Government Centre (2015), "Citizens' perception, uptake and support for the e-Transformation of Governance in the Republic of Moldova", Government of Moldova Centre of Electronic Government, Chisinau.

404 Ibid.

Figure 1. Popularity of online and offline channels for public service delivery
Share of people who accessed a public service via given channel in 2013, 2014 and 2015



Source: E-Government Centre (2015), "Citizens' perception, uptake and support for the e-Transformation of Governance in the Republic of Moldova", Government of Moldova Centre of Electronic Government, Chisinau.

Low take-up of digital services and enablers is largely due to a lack of supported services and the existence of some prohibitive conditions. Digital signatures (MSign) and authentication (MPass) are, for example, legally recognised in Moldova. The number of registered mobile signatures is steadily growing and now stands at over 57 000; however, less than 1 000 national electronic identity cards have been issued. These add up to just 2% of the adult population[405].

The Government has few effective mechanisms to ensure quality of public services across central government. The situation is much better for digital public services when effective frameworks, co-ordination and monitoring practices are in place. Take-up rates are still low but growing quickly. Open government data is seen as an opportunity to improve public scrutiny of service quality, but greater demand requires more active community engagement.

Principle 4: The accessibility of public services is ensured.

Territorial coverage for basic administrative services of the central government is generally in place. Basic administrative documents can be obtained through territorial branches of the state-owned enterprise Registru – this includes 46 offices issuing national (electronic) identity cards and passports, and a similar number of offices issuing driving licences.

There are several one-stop shops that integrate and simplify specific procedures for businesses[406]. The business registration process is noteworthy because it involves seven different institutions[407]. All the

405 The user fee for obtaining a national electronic ID card is MDL 700, compared with MDL 130 for the regular card.

406 Business registration with the State Registration Chamber (Ministry of Justice); environmental permits with the State Ecological Inspectorate (Ministry of Environment); business licensing with the Chamber of Licensing (Ministry of Economy); and customs-related permits with the Customs Service (Ministry of Finance).

407 State Registration Chamber, the state-owned enterprise Registru, National Centre for Terminology, State Tax Service, National Bureau of Statistics, National Health Insurance and National Social Insurance.

information necessary to register a business is transmitted automatically and in real time among these institutions.

One physical one-stop shop for citizens exists: the Joint Bureau for Information and Services, operated by local authorities[408]. The Bureaus are supported by UN Women and Moldova's E-Government Centre. Through the use of mobile teams, the Bureaus provide hard-to-reach groups (rural population, women) a set of services relating to employment, healthcare, land registration and business development.

The "once-only" provision in the Government Action Plan 2015-2016 aims to further reduce burdens on citizens and to allow the operation of one-stop shops. Its realisation will require fast progress in digitising a number of government information systems and making them interoperable.

Citizens and businesses have access to the digital one-stop shop[409]. The portal simplifies access to official information and public services, and it is increasingly popular: it received almost 300 000 visits in 2015, compared with 196 000 visits in 2014. Basic information is provided for almost 500 central government services, including around 100 e-services, although only a few can be entirely completed online.

The most popular services that can be entirely completed via digital channels are: issuing of personal criminal records (e-Cazier)[410], processing business licenses[411], and making payments to the public administration (MPay)[412]. These examples show the advanced state of digital service delivery in some areas of public administration. However, services which require certified digital authentication[413] suffer from a low take-up rate.

Barrier-free access to public services is a major challenge in Moldova. Only in 2013 did the Government adopt an Action Plan to improve physical access to buildings[414]. The Ministry of Regional Development and Construction Monitoring is responsible for monitoring this; its latest report finds that 33% of public administration buildings (central and local levels combined) provide a wheelchair ramp, but most of the ramps do not meet the minimum standards established by the Ministry[415].

In 2014 the Government granted the right of sign-language interpretation for people with hearing impairments[416]. According to official information, over 14 000 hours of interpretation were provided in 2014[417].

Access to digital public information and services is more advanced. Minimum requirements are mandated for content, design and language of official web pages[418]. A 2014 review found that central government institutions largely conform, even though presentation of information is still heterogeneous across websites[419]. Much information is available in Russian, the most-used minority

408 Government Decision No. 661/2013.

409 www.servicii.gov.md.

410 10 000-15 000 monthly requests, and nearly 100% are made online. All payments are processed through the digital payments infrastructure MPay.

411 The digital channel accounted for close to 100% of the approximately 500 requests received monthly during 2015.

412 The infrastructure is part of Moldova's commitment to the UN-supported Better Than Cash Alliance. Over 1.7 million digital payments were made between the launch in September 2013 and January 2016.

413 E.g. personal income tax declarations, of which 2.5% were submitted electronically in 2015, or applications for civil status documents, of which 11% were submitted electronically in January 2016.

414 Government Decision No. 599/2013.

415 http://www.mdrc.gov.md/libview.php?l=ro&idc=55&id=2747&t=/Arhitectura-si-Urbanism/Urbanism-arhitectura-si-amenajarea-teritoriului/Circa-70-la-suta-din-institutiile-publice-i-cladirile-de-menire-sociala-din-tara-nu-dispun-de-rampe-de-acces.

416 Government Decision No. 333/2014.

417 Ministry of Labour, Social Protection and Family of the Republic of Moldova (2015), *Annual Social Report 2014*, Chisinau.

418 Government Decision No. 188/2012.

419 http://mtic.gov.md/sites/default/files/transparency/plans_and_reports/raport_evaluarea_pagini_web_2014.pdf.

language in Moldova, but the review also indicates that content is not consistently available in other minority languages.

Entirely absent is a government mandate for digital accessibility standards for users with special needs, hence there is no obligation to comply with recognised international standards like the Web Content Accessibility Guidelines. Some institutions' websites fare well when tested, whereas others pose high accessibility barriers: the government online services portal[420], for example, has only 6 known problems, whereas the website of Registru[421] has 112 and the online portal of the State Tax Service[422] has 221[423].

Territorial service provision and business-oriented one-stop shops are well developed for some basic services. Citizen-oriented one-stop shops do not exist, except for the Government's online services portal. People with special needs face high barriers in obtaining public information and services. Digital channels provide a more accessible alternative in some areas, but the lack of common standards means there is considerable inconsistency.

Key recommendations

Short-term (1-2 years)

1) The State Chancellery should create capacity to steer service delivery reforms across the administration. One of the more urgent tasks is to centrally collect and produce benchmark data on service delivery volumes, costs, channel choices and satisfaction rates in order to continuously monitor and evaluate progress.

2) The Government should ensure that digitisation continues and is focused on high-priority areas such as advancing interoperability and removing barriers to the take-up of digital services. The E-Government Centre's recognised expertise and leadership should be applied to make progress in areas in which public service delivery reforms foreseen in the 2014-2016 reform programme have been slow (this would require re-routing some resources).

3) The Government, together with the Council for National Participation, should improve access to data about information and consultation procedures conducted by the public administration. It should become much easier to compare the transparency of individual institutions, to facilitate public exposure, public scrutiny and peer pressure.

Medium-term (3-5 years)

4) The Government should develop a service delivery reform culture across the administration and promote inclusive and open debate about what "good" public service delivery means in different contexts. First, there is a need for measures for collaborative design and development of public service (for example, in the form of a handbook), and for good-practice networks and training, to illustrate the benefits of public service re-structuring. Subsequently, each individual public service should have a service manager as an institutional contact for change initiatives.

5) The Government should renew its commitment to a comprehensive set of "good administration" principles in the form of an overarching law on general administrative procedures. The time it takes to arrive at a consensus should be used to engage in public consultations and an inclusive debate on the principles and rights necessary for good administrative procedures in Moldova.

420 https://servicii.gov.md

421 http://www.registru.md

422 https://servicii.fisc.md

423 Tested on 24 November 2015 using www.achecker.ca for "problems that have been identified with certainty as accessibility barriers". Other government web pages tested: Ministry of Education (www.edu.gov.md): 12 known problems; Ministry of Labour, Social Protection and Family (www.mmpsf.gov.md): 26; Government online portal (www.gov.md): 36; Ministry for Regional Development and Construction (www.mdrc.gov.md): 143.

6) The Government should show strong commitment to removing barriers to public information and services access for people with special needs. This requires the harmonisation of design standards for physical as well as digital service delivery channels, so that users face the lowest possible barriers regardless of the choice of delivery channel. Leadership in this area should come from the central government, instead of a line ministry, in order for tangible progress to be made.

6
Public Financial Management

PUBLIC FINANCIAL MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-2015

1.1. State of play

Moldova has well-developed rules and procedures in place for preparation of the medium-term budgetary framework (MTBF) and the annual budget, but institutions have not been able to respect established timetables in recent years. Annual budget estimates have been on target, but in-year budgetary adjustments were required to ensure that deficit targets were met from 2012 to 2014. In 2014, for example, the budget was amended three times. The Public Financial Management (PFM) Reform Strategy[424] is in place and is being implemented.

The main elements of an effective framework for both financial management and control (FMC) and internal audit (IA) have been in place for some time, emanating from the Public Internal Financial Control (PIFC) Law[425] and supported by sub-legislation and extensive guidance in both areas. For FMC, budgets are detailed enough to sustain managerial accountability, but there is no budget delegation throughout the management structure. Progress has been slower at the institutional level. For FMC, self-assessments of progress made with PIFC Action Plan items showed that fewer than one quarter were implemented in 2014. Only 45 of 57 organisations have set up the required IA units, with a total of 125 internal auditors. Almost half the units have just one internal auditor, making it difficult to comply with requirements for review and quality assurance.

The legal framework of the public procurement system in Moldova has recently been brought closer to European Union (EU) standards through the adoption of a new Law on Public Procurement (2015 PPL)[426] in July 2015. However, several provisions of the new law (such as those on blacklisting of economic operators and the status of the new complaints settlement body) are incompatible with EU requirements and will require further amendments. Procurement in the areas of defence and utilities remains unregulated, while the legal framework governing concessions and public-private partnerships (PPPs) requires revision and alignment with relevant EU legislation.

Implementation of the procurement rules by contracting authorities is weak. The biggest challenges are poor and inefficient public procurement planning, low-quality drafting of technical specifications and tender documents, and insufficient monitoring of execution of public procurement contracts. These problems, in conjunction with a burdensome *ex ante* approval procedure carried out by the Public Procurement Agency (PPA) and a weak legal remedies system, are currently undermining the efficiency of Moldova's public procurement system.

The Court of Accounts (CoA) is established in the Constitution, with its independence, mandate and organisation protected by primary legislation[427]. The CoA is developing its professional practices in line with the International Standards of Supreme Audit Institutions (ISSAIs) and publishes all its audit reports. However, the Parliament does not engage in full and comprehensive deliberation on individual reports from the CoA.

424 Public Financial Management Reform Strategy 2013-2020, Government Decision No. 573 of 6 August 2013.

425 Law No. 229 on Public Internal Financial Control of 23 September 2010.

426 Law No. 131 of 3 July 2015, Official Gazette No. 197-205/2015 of 31 July 2015.

427 Law No.261-XVI on the Court of Accounts, 5 December 2008, Official Gazette Nos.237-240/2008, 31 December 2008.

1.2. Main developments

A new Organic Budget Law (OBL), enacted in 2014 is being implemented in stages over the 2015-2017 Budgets[428]. This new Law introduces a number of changes, including a deficit restriction rule (2.5% of gross domestic product [GDP] in normal times) and a requirement for Parliamentary approval of medium-term budgetary limits[429].

Developments have been incremental for both FMC and IA. Further training and familiarisation sessions have been held on the requirements of FMC. In 2014, the number of IA units increased from 29 to 45 in those organisations required to establish them, and from 77 to 86 in all public administration organisations. The number of internal auditors increased from 108 to 125, and the number of internal auditors with national certificates from 33 to 40.

On 3 July 2015, the Parliament of the Republic of Moldova approved the new PPL, replacing the previous law, which dated from 2007[430]. In its preamble, the new PPL declares the intention of transposing, fully or partially, Directives 2004/18[431], 2014/24[432] and 89/665[433]. The new law is scheduled to enter into force in May 2016[434]. No accompanying secondary legislation has yet been adopted.

On 16 September 2015, the World Trade Organization Committee on Government Procurement adopted a decision inviting the Republic of Moldova to accede to the Government Procurement Agreement. Accession will enter into force 30 days after Moldova has submitted its instrument of accession, which is scheduled for completion in mid-March 2016.

In co-operation with development partners, the CoA began developing a new law, designed to change organisational and management arrangements of the CoA to align them with an Auditor General/National Audit Office model.

428 New Law No. 181 on Public Finances and Budgetary Fiscal Accountability of 25 July 2014, Official Gazette Nos. 223-230/2014, Article No. 519.

429 Ibid.

430 Law No. 96-XVI on Public Procurement of 13 April 2007, Official Gazette Nos. 107-111/2007 of 27 July 2007.

431 Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134 of 30 April 2004, pp. 114-240).

432 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94 of 28 March 2004, pp. 65-242).

433 Council Directive 89/665/EEC of 21 December 1989 on the co-ordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395 of 30 December 1989, pp. 33-35).

434 Article 83 of the new PPL.

2. ANALYSIS

The analysis covers the 16 Principles for the public financial management (PFM) area, grouped under 8 key requirements[435]. Under each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover the whole cycle of financial management and address: budget formulation; accounting and reporting practices; FMC; internal audit; public procurement; and external audit.

2.1. Key Requirement: The Budget is formulated in compliance with transparent legal provisions and within an overall multi-annual framework, ensuring that the general government budget balance and the debt-to-gross domestic product ratio are on a sustainable path.

Baseline values

The functioning of medium-term and annual resource planning is analysed using three qualitative indicators and five quantitative indicators.

The MTBF is reasonably strong, but there have been no fiscal rules in place (although there will be a deficit rule in future). The outturn has been close to that forecast, but this was the result of in-year adjustments in the period 2012-2014.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	MTBF strength index.	2014	3
	1	Fiscal rules strength index.	2014	1
	2	Extent to which the annual budget proposal includes full information at the time of presentation to the Parliament.	2014	2
Quantitative	1	Percentage differences between the planned budget revenues in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	0.5%
	1	Percentage differences between the planned budget expenditure in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	3.3%
	2	General government budget balance.	2014	Not available[436]
	2	Percentage differences between the planned budget revenues (as approved in the Budget) compared to the outturn of the latest	2014	4.7%

435 SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 74-109.

436 Moldova does not produce general government budget balance data compatible with Eurostat standards.

		available year.		
	2	Percentage differences between the planned budget expenditure (as approved in the Budget) compared to the outturn of the latest available year.	2014	2.4%

Analysis of Principles

Principle 1: The Government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum time horizon of three years; all budget organisations operate within it.

Under the law[437], an MTBF is developed in the first part of a year and covers a three-year period. The latest draft MTBF covers 2016-2018. The MTBF is the product of wide consultations between the Ministry of Finance (MoF) and other ministries and non-government stakeholders. However, in 2013 and 2014, the MTBF was not approved by the Government, although it was placed on the MoF website very late in the budget process. In 2014, for example, the MTBF for 2015-17 was placed on the MoF website on 15 July, although the target date was 1 June[438].

The absence of costed sectoral strategies in many areas means that the MTBF does not have a direct link to medium-term strategic objectives of budget users. The MTBF sets out the macro-economic assumptions (developed by the Ministry of the Economy and the National Bank of Moldova) and the revenue and expenditure expectations on which it is based. The projections are not in line with the conventions of the European System of Accounts. The MTBF does not contain a sensitivity analysis and does not note the long-term costs of planned investment spending.

The MTBF is sent to the Parliament for information only. In future, under the new Budget Law, it will also be submitted for information, but the limits arising from the MTBF proposed by the Government will be subject to Parliamentary approval, as part of a revised budgetary process[439].

The MTBF has wide coverage, including health and social insurance and external donations. Each public sector organisation observes the MTBF in planning its annual budget. However, in some cases, budget users regard the MTBF as the strategic plan, rather than having their own separate plan. Taking the above factors into account, the value for the indicator on MTBF strength is 3.

Under the existing budget law, there are no fiscal rules limiting the deficit or the debt. However, with the adoption of the new Budget Law, there will be a deficit restriction rule[440]. There is no independent fiscal council and no proposals to establish one. In light of these concerns, the value of the indicator for fiscal rule strength is 1.

The MTBF is compiled each year and, even in the uncertain political situation of recent years, it has served as a framework for development of the annual budget. However, links between the MTBF and sectoral strategies are weak, and the PFM Strategy recognises that the forecasting approach needs improvement.

437 Law No.847-XIII on Budgetary System and Budgetary Process of 24 May 1996 as amended, Government Decision No. 82 of January 2006.

438 Law No. 181 on Public Finances and Budgetary Fiscal Accountability of 25 July 2014, Article 47 Official Gazette Nos. 223-230/2014, Article 519.

439 Ibid. Articles 48 and 49.

440 Ibid. Article 15.

Principle 2: The Budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.

Both the old and the new Organic Budget Laws set out definitions of public money, budget timetables, and the roles to be played by the Government, the MoF and the Parliament. The legislation defines the budget as including not only the central government, but also the funds for social insurance and health. The long-standing OBL is being replaced by a new budget law[441]. The new law has been approved and is gradually being applied, but harmonisation of around 70 different legal acts will be necessary.

Under the current Law, the Annual Budget must be submitted to the Parliament by 1 October[442] (under the new law, the deadline will be 15 October). However, due to political instability and elections over the past three years, the Budget has not always been submitted on time or approved by the Parliament within the timelines specified in the legislation.

Table 1. Comparison of legal deadlines and actual practice of Government's submission of the Budget to the Parliament

Specified date	Actual Date
1 October 2012	28 September 2012
1 October 2013	3 December 2013
1 October 2014	8 April 2015

Source: The Ministry of Finance

Table 2. Comparison of legal deadlines and actual practice of Parliament's approval of the budget

Specified date	Actual date
5 December 2012	2 November 2012
5 December 2013	23 December 2013
5 December 2014	12 April 2015

Source: The Ministry of Finance.

It is clear that in recent years the Parliament has not always had sufficient time to analyse and consider the Budget proposal. In addition, the time available to the Parliament is not in line with recommended best practice[443], which recommends a three-month period between submission and approval.

When formulating the Budget, the MoF sends budget users an annual circular[444] that sets out the macro-economic projections, costing methodologies and timetable as well as expenditure ceilings derived from the Government decision on the MTBF, and requests proposals for the coming year[445].

441 Law No.847-XIII on Budgetary System and Budgetary Process of 24 May 1996, as amended; Law No. 181 on Public Finances and Budgetary Fiscal Accountability of 25 July 2014, Official Gazette No. 223-230, Article No. 519.

442 Law No. 847-XIII on Budgetary System and Budgetary Process of 24 of May 1996 as amended, Article 26.

443 OECD Best Practices for Budget Transparency (2002).

444 Detailed instructions for the preparation and presentation of proposals by central authorities for the draft state budget for 2016 and estimates for the years 2017-2018.

445 Law No. 181 on Public Finances and Budgetary Fiscal Accountability of 25 July 2014, Article 50 Official Gazette Nos. 223-230, Article No. 519.

The law does not specify the date for issuing this circular, but the Ministry of Finance has formally set out a timetable[446].

Capital investment programmes are not costed on a standardised basis. Costing analysis of capital investment has recently been delegated to ministries, but there are insufficient numbers of trained staff to carry out this task. The MoF reviews the analyses under the new arrangements.

There have been amendments to the budget in each of the last three years to ensure it remained on target. Some of the amendments arose from new expenditure allocations, while others were related to changes in the macro-economic environment. This indicates deficiencies in forecasting methodology.

In addition to the information set out in the Annual Budget Law, the Parliament is also supplied with background information setting out the elements underpinning the Budget, including macro-economic projections, and capital and current expenditure. Under the new Budget Law (Article 52), this information will include baseline (existing) expenditure and an estimate of the current year's outturns. However, contingent liabilities are not listed, and neither are long-term projections (greater than five years) of revenue and expenditure. In addition, the Budget deals only with central government debt projections and does not provide information on public-sector debt. For these reasons, the value of the indicator for annual budget information is 2.

The existing legislation sets out a clear timetable for the Budget and covers aspects of good budgeting practice, including the definition of public money, the use of a Single Treasury Account (STA) and the Parliament's role. However, the timetable has not been observed in recent years. The information supplied is detailed, but more elements are needed to make it fully comprehensive.

Key recommendations

Short-term (1-2 years)

1) The MoF should start preparations for the introduction of a legally binding deficit target for the general government, and consideration should be given to establishing a legislative debt ceiling.
2) The MoF should make the MTBF more comprehensive by including analysis of long-term costs of investment and a sensitivity analysis.
3) In the annual budget documentation, the MoF should provide information on public sector debt, including an estimate of the current year's outturn and the projected level for the coming year. In addition, the MTBF should show the projected evolution of public sector debt for the period of the Framework.
4) The MoF should undertake further work to harmonise other legal acts with the requirements of the Law on Public Finance and Budgetary and Fiscal Accountability[447].

Medium-term (3-5 years)

5) The MoF and State Chancellery should co-operate to establish a system where costed strategic plans for the major sectors are developed so that the MTBF can more closely reflect strategic objectives in the major sectors.
6) The MoF should review the operation of the new system of capital investment appraisal and consider if any changes are needed.

[446] Order of the Ministry of Finance No. 209 of 24 December 2015.

[447] Law No. 181 on Public Finance and Budgetary Fiscal Accountability of 25 July 2014.

2.2. Key Requirement: Accounting and reporting practices ensure transparency and public scrutiny over public finances; both cash and debt are managed centrally, in line with legal provisions.

Baseline values

The functioning of medium-term and annual resource planning is analysed using three qualitative indicators and five quantitative indicators.

Both in-year and annual financial reporting is carried out on a regular basis, although these do not provide fully comprehensive information to the public. Cash flow planning is highly centralised, but variations between plans and actual spending are significant on average. The reported level of arrears is low.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which in-year financial reporting provides full information and is made publicly available.	2014	3
	5	Extent to which the annual financial report includes full information and is made available in time to the Parliament.	2014	3
Quantitative	3	Average percentage differences between cash flow projections and actual cash balance on a monthly basis.	2014	7.7%
	3	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	2014	0.2%[448]
	4	Public sector debt servicing costs as a share of gross domestic product.	2014	0.6%[449]
	4	Difference of public sector debt level outturn from target.	2014	3.1%[450]

Principle 3: The Ministry of Finance, or authorised central treasury authority, centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.

All public revenue is collected through and paid from an STA, and the Budget is executed on a cash basis[451]. The Treasury Directorate in the MoF administers the STA. The Minister of Finance is the only person authorised to open government bank accounts (although bank accounts may be opened with

448 Data provided by the MoF.

449 For 2013, 0.5%.

450 For 2013, -2.6%. The Budget Law only sets the limit for central government debt, not public sector debt. Therefore this figure relates only to the central government.

451 Law No. 181 on Public Finances and Budgetary Fiscal Accountability of 25 July 2014, Article 62, Official Gazette Nos. 223-230/2014, Article No. 519.

the permission of the Ministry of Finance where external project funding is dependent on that condition).

While the MoF compiles cash flow projections, these are mostly used as a spending control mechanism, where a spending unit's annual allocation is simply divided by 12. Spending units do not undertake an analysis at the beginning of the year to project their real spending needs, which they should negotiate with the MoF and manage accordingly. Despite the centralised system for cash flow planning, variations in monthly spending compared to estimates made at the beginning of the year are considerable, on average 7.7%, with large variations in certain months.

Table 3. Cash Flow 2014 (MDL)

Month	Projected	Realised	Difference	% Difference
January	1 515	1 625	110	7.26
February	1 432	1 648	216	15.08
March	1 892	1 912	20	1
April	1 914	1 854	-60	-3.13
May	2 272	2 152	-120	-5.28
June	2 037	2 240	203	9.97
July	1 947	1 630	-317	-16.3
August	2 466	2 480	14	0.06
September	2 062	2 131	69	3.35
October	2 066	2 389	323	15.63
November	1 953	2 167	214	10.96
December	2 276	2 366	90	3.95

Source: The Ministry of Finance

This cash rationing system arises in part because of a lack of centralised reporting of commitments by budget users. It reduces ownership of the cash flow process and can contribute to inefficient cash management. Cash flow forecasts are accessible to budget users. Reconciliations between the treasury information system, the accounting information system and the bank accounts are undertaken on a monthly basis. Cash is allocated based on the priorities set by the Government, such as payment of debt, payroll and pension commitments, transfers to health and social insurance funds and energy bills.

There are also strict controls by the Treasury at a more transactional level. Monthly cash limits for payments imposed by the Treasury cannot be exceeded and are usually set at one-twelfth of the approved budget, although variations are possible depending on availability of funds. Individual transactions require specific Treasury approval, with strict controls over contracts. Procedures are in place to prevent budget users from exceeding their allocation, and permission must be sought from the MoF when funds are required over and above the allocated provision.

The treasury management system is robust and ensures that payments and revenues are centralised, and that no unauthorised bank accounts are in operation. In practice, cash flow planning seems more concerned with cash rationing than with cash flow planning *per se*.

Principle 4: There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected and debt servicing costs are kept under control.

The operation of debt management is clearly regulated in law[452]. The majority of debt is related to external multilateral organisations or bilateral governmental loans and is denominated mainly in US dollars. There is little internal debt, and capital markets are under-developed. The main domestic debt raising is through treasury bills for 91 days, 182 days or 364 days**.** Although the interest rate on treasury bills is in excess of 20%, debt service costs are low. In 2014, they were MDL 591.8 million[453], 0.6% of GDP and 2.4% of state revenue.[454] Moody's rating agency currently rates Moldova a B3 with a negative outlook[455].

A debt strategy is set out in a three-year framework, as required in the Debt Management Law, and is linked to the three-year MTBF. This strategy is updated annually. The current strategy, issued in 2015[456], covers the years 2016-2018. It sets out the aims of debt management and contains a sensitivity analysis. The debt sustainability analysis is carried out for Moldovan authorities by the International Monetary Fund (IMF). The previous strategy, covering the years 2015-2016, envisaged a steady evolution of the debt with the debt-to-GDP ratio not changing significantly over this period. The IMF[457] has expressed concern that the debt can be expected to rise. The new debt strategy recognises that the debt-to-GDP ratio will increase significantly in 2016 due to state guarantees to the banking system.

Total public debt stood at 32.5% of GDP at the end of 2014. However, because of the ongoing banking scandal, the impact of the State Guarantee given to the National Bank of Moldova will increase the public debt by approximately 11%-12% of GDP. The level of central government debt is set in the Annual Budget, but not the level of general public sector debt (that is, excluding debt and guarantees of the local government sector). There is no formal ceiling for the level of general government debt[458].

There is regulation of borrowing: only the Minister of Finance can borrow on behalf of the State. Local Authorities must obtain the MoF's approval for long-term borrowing or issuance of long-term guarantees[459]. SOEs do not require prior permission from the MoF to borrow, although the legislation[460] allows the founder ministry to set limits on how much the SOE can borrow.

The MoF prepares quarterly and annual reports[461] (Reports on Public Sector Debt, State Guarantees and State On-Lending), which are submitted to the Government within 70 days of the end of the quarter, and 90 days after year-end. These reports are published on the MoF website. The debt management function is subject to audit by the Court of Accounts.

There is active management of public sector debt within a legislative framework and regular reporting. Controls exist to prevent unauthorised borrowing, and there is a published strategy. However, the sharp increase in debt due to the national bank guarantee is a significant new factor. Information on projected public sector debt is not included in the budget documentation sent to Parliament.

Principle 5: Budget transparency and scrutiny are ensured.

452 Law No. 419 on Public Sector Debt, State Guarantees and On-lending from State Borrowings of 22 December 2006, amended 29 May 2014, Official Gazette Nos. 397-399/2014 of 31 December 2014.

453 MDL is the code of the International Organization for Standardization (ISO) for the Moldovan currency, Moldovan leu.

454 Ministry of Finance, Report on Public Sector Debt 2014.

455 Moody's, https://www.moodys.com/.

456 The strategy was approved by the management board of the MoF as there was no cabinet of ministers appointed by the end of 2015. In previous years, the strategy has been adopted by a Government decision.

457 IMF Staff Report, December 2015, Country Report No. 14/346.

458 The debt ceiling of local governments is set in the annual budget of individual local government units.

459 Law No. 419 on Public Sector Debt, State Guarantees and On-lending from State Borrowings of 22 December 2006, amended on 29 May 2014, Article 46, Official Gazette Nos. 397-399/2014 of 31 December 2014.

460 Government Decision No. 770 of 20 October 1994.

461 Law No. 419 on Public Sector Debt, State Guarantees and On-lending from State Borrowings of 22 December 2006, amended on 29 May 2014, Article 12, Official Gazette Nos. 397-399/2014 of 31 December 2014.

Monthly profiles of expected revenue and expenditure for the coming year are not published early in the year to enable measurement of the evolution of the main budget components. The MoF does publish monthly reports of revenue expenditure and borrowing within four weeks of the end of the month[462]. The reports are compiled internally from the Treasury Management System. Monthly reports are published on the evolution of the main budget headings, but these simply detail the cumulative position and note deviations in amount and percentage. They also set out comparative figures for the corresponding period of the previous year. However, causes of deviations from the planned position, such as whether the deviation was due to timing or other issues, are not explained. As a result, the reports have limited value. In addition, the reports do not specify future spending commitments. Starting on 15 August 2015[463], the Government must submit a report on budget execution to the Parliament every six months, in addition to the monthly reports.

Local authorities publish quarterly reports[464]. State-owned companies are required to submit annual audited reports to the MoF, including balance sheet and cash flow statements. Although a number of requirements are met, some elements, such as the need to explain deviations and detail spending commitments, are still not covered. In light of these issues, the value of the indicator for in-year reporting is 3.

Accounting systems in each ministry operate on an accruals basis. However, the Treasury's own systems are cash based, which complicates reconciliations between the different systems. The Treasury Annual Budget Statement includes disclosures of assets and liabilities, providing a modified cash basis for accounting.

The Government is required to submit an annual financial statement for the State Budget to the Parliament by 1 June. Separate reports are submitted by the health and social insurance funds and local authorities[465]. The annual reports on budget execution are submitted in a format comparable to the format of the approved budgets and include macro-economic data, comparisons with the previous year, explanations of any deviations from the medium-term budgetary policies, rectifications to budgets carried out in the year, programme performance, as well as debt information. However, it is not clear which accounting policies are used, and there is no information on contingent liabilities.

The Parliament is required to approve the annual statements of the central government and the funds by 15 July[466]. In 2012, 2013 and 2014, the MoF submitted these reports to the Government on time (in April with a legislative deadline of 1 May) and the Government submitted them to the Parliament. But the Parliament has not yet approved the annual reports for those years. These delays were due to the elections and political instability. Based on these factors, the value of the indicator for end-of-year reporting is 3.

The national accounting standards are not aligned with EU requirements.

Annual financial statements for the state budget and the health and social insurance funds are prepared within six months of the year end and are audited. The formats are similar to the budget format. However, the Parliament has not discussed these financial statements in recent years nor prior to each year's budget.

Key recommendations

Short-term (1-2 years)

462 Law No.847-XIII on Budgetary System and Budgetary Process of 24 May 1996 as amended, Article 44 and Law No. 181 on Public Finances and Budgetary Fiscal Accountability of 25 July 2014, Article 47.

463 Law No. 181 on Public Finances and Budgetary Fiscal Accountability of 25 July 2014, Article 71.

464 Law on Local Public Finances No. 397 of 16 October 2003.

465 Law No. 181 on Public Finances and Budgetary Fiscal Accountability of 25 July 2014, Articles 47 and 73.

466 Ibid. Article 47.

1) The MoF should devise a new cash flow planning system based on information supplied by budget users.
2) In line with the IMF Staff Report[467], the MoF should consider including a debt sensitivity analysis in the Annual Budget.
3) The MoF should publish monthly profiles of expected revenue and spending by central government and the two main funds at the beginning of the financial year.
4) The MoF should expand its monthly reports to explain the causes of any major deviations from the expected profile in both revenue and spending, and also to include information on commitments.

Medium-term (3-5 years)

5) The MoF should prepare legislative changes to ensure that SOEs are required to obtain prior approval for any proposed borrowing.
6) The MoF should introduce training of staff to allow them to carry out debt sustainability analysis.
7) The MoF should improve the annual financial reports by clarifying the accounting policy used and providing information on contingent liabilities.

2.3. Key requirement: National financial management and control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout the public sector.

Baseline values

The functioning of financial management and control is examined through one qualitative indicator, covering ten critical elements of an effective framework, as defined in the Principles of Public Administration[468], complemented by three quantitative indicators to analyse how key aspects of financial management and control are developing.

The operational framework for FMC applies to all three levels of public administration, but there is no formal reporting on progress from the numerous small local public administration bodies. Other indicators are affected by the lack of budget delegation in Moldova. For wastefulness of government spending, Moldova ranks 102 out of 144 countries assessed[469].

467 IMF Country Report No. 14/346, January 2016.

468 SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 87-89.

469 Global Competitiveness Report 2014-2015, World Economic Forum.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	6	Extent to which the operational framework for FMC is complete, in place and applied.	2014	2
Quantitative	7	Share of first-level budget organisations where budget structure is aligned with the organisational structure.	2014	Not available[470]
	7	Share of first-level budget organisations where delegated budget holders below minister or secretary-general level receive at least monthly information on financial commitments and spending against the Budget within their part of the Budget.	2014	Not available[471]
	7	Wastefulness of Government spending (The World Economic Forum).	2014	2.6

Analysis of Principles

Principle 6: The operational framework for financial management and control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and public administration in general.

The operational framework has been in place for some time and includes legislation, sub-legislation and more detailed procedural guidance. The framework applies to "central and local public authorities, public institutions", as well as to "autonomous authorities/institutions managing funds from the national public budget"[472]. The legislation is brief, relying on sub-legislation and guidance, for example for National Internal Control Standards[473] and the Financial Management and Control Manual[474]. The latter provides a more detailed explanation of principles of the Committee of Sponsoring Organisations (COSO)[475], although it does not include information and communication, which is one of the five COSO principles.

The primary legislation[476] establishes the authority of the Harmonisation Division in the MoF (HDMF) for further development of PIFC, including both FMC and IA. Out of a total of seven staff, three are engaged in FMC work. The HDMF is supported by the PIFC Council, chaired by a Deputy Minister. It reviews draft plans and legislation and monitors progress of harmonisation.

470 Information not systematically collected by the MoF.

471 Information not systematically collected by the MoF.

472 Law No. 229 on Public Internal Financial Control of 23 September 2010, Article 2.

473 National Internal Control Standards in the public sector, originally introduced through Order No. 51 of 23 June 2009, but subject to a number of detailed revisions, including one in 2015.

474 Developed as part of the Twinning Project, "Strengthening public financial management in Moldova", published in October 2013.

475 The principles of the Committee of Sponsoring Organisations of the Treadway Commission were originally drafted for application to private sector companies.

476 Law No. 229 on Public Internal Financial Control of 23 September 2010, Chapter IV.

There is a current PIFC Action Plan for both FMC and IA covering 2014 to 2017[477]. Almost half of the document is a restatement of PIFC principles, followed by 66 actions for the MoF and other organisations with responsibility for implementing PIFC. Some actions for 2015 are quite specific, if onerous (such as "Description and review, as appropriate, of basic processes of the specialised bodies of the central public administration [including financial processes]"), but others are more vague and harder to monitor (for example, "Promote and establish an appropriate control culture within the local public administration authorities of level II") or cover the whole of the planned period (for example, "Review, as appropriate, current information systems and internal and external communication within public entities").

The HDMF provides an extensive annual report on progress to the Government with the introduction of PIFC (including FMC and IA). This is largely based on reports submitted by IA units at the top two levels of budget organisation (57 entities). Information in these reports is accepted without further investigation. The HDMF report does not include any specific conclusions or recommendations for more effective FMC development. While this process covers the top two levels of budget organisation, up to 1 000 other, mainly small organisations are required to implement FMC but are not subject to any monitoring. Based on these factors, the value of the indicator for the operational framework for FMC is 2.

A significant financial inspection (FI) function is operated by the State Financial Inspectorate. FI predates IA in Moldova and has more resources[478] and more power than IA, including the ability to impose sanctions. Draft legislation[479] proposes to extend the role of the FI function to include the ability to undertake criminal prosecutions. The Financial Inspectorate estimates that it will need to double its staff to cope with the current workload and new powers. Most of its work focuses on compliance and suspected irregularities. Nevertheless, some elements of FI activity (such as investigation of issues identified by a new hospital manager) address issues that would be covered by IA in other countries and, because of the sanctions that can be imposed by the FI, there is a risk that the role of IA could be undermined.

Most elements of an effective framework for FMC have been in place for some time. Some PIFC action plan items could be more specific, and further work is required on budget delegation to facilitate effective FMC.

Principle 7: Each public organisation implements financial management and control in line with the overall financial management and control policy documents.

Implementation of FMC at an organisational level is not equally structured and is lagging behind the development of the operational framework. Primary responsibility for the introduction of FMC rests with the top manager of each organisation, with other managers within the structure responsible for FMC in their subdivisions[480]. In practice, IA units support the development of FMC with the provision of staff training and advice on controls, as well as signing off on annual reports on FMC progress. Organisations are not required to have their own rules on FMC development or their own action plans, although some do, with the MoF having a very detailed plan. The FMC Manual anticipates but does not require organisational FMC co-ordinators, working groups and action plans. These have not been put in place.

The Central Harmonisation Unit (CHU) annual report on PIFC for 2014 shows the aggregate level of implementation for FMC actions planned for the year. The MoF was the only organisation at central public administration (CPA) level that had completed all planned actions for 2014. The rate of

477 Development Programme for Public Internal Financial Control for the years 2014-2017, Decision No. 1041 of 20 December 2013.

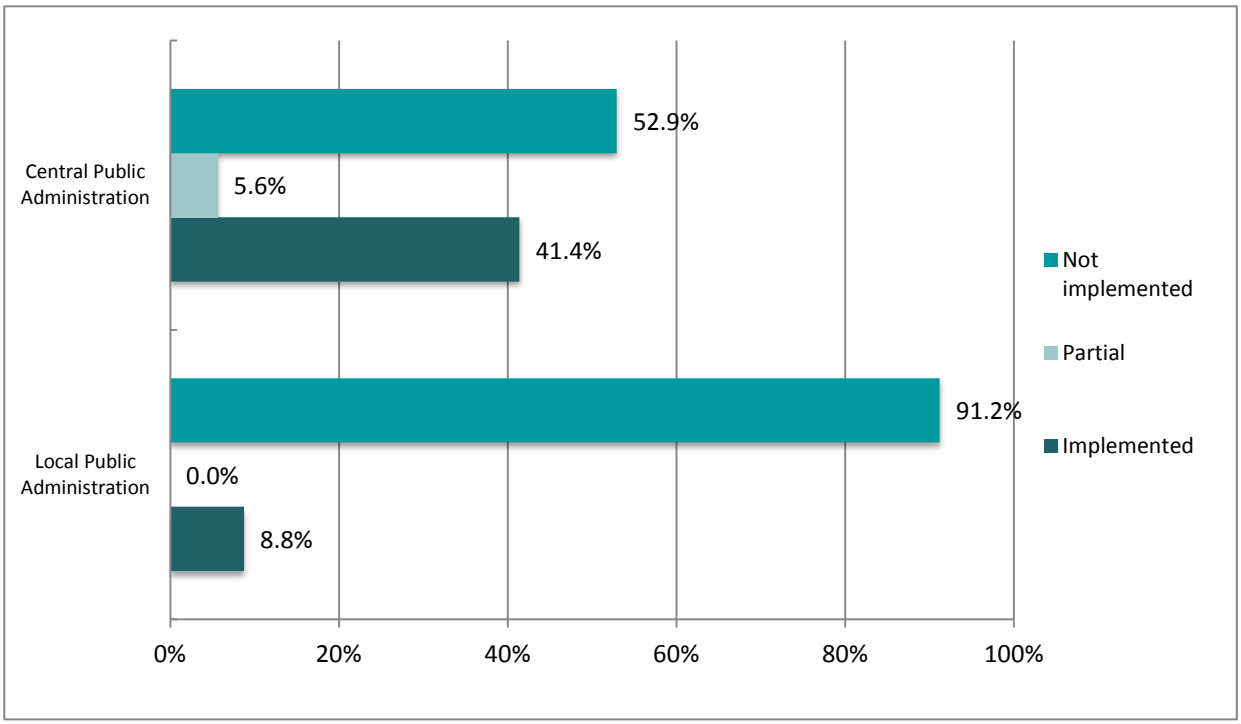
478 The aggregate number of IA staff reported as at the end of 2014 is 125, while the Financial Inspection at the time of the SIGMA assessment employed 135.

479 Expected to be approved in 2016.

480 Law No. 229 on Public Internal Financial Control of 23 September 2010, Article 15.

completion at CPA level was less than 50%, and for local public administration (LPA) it was very much lower (Figure 1).

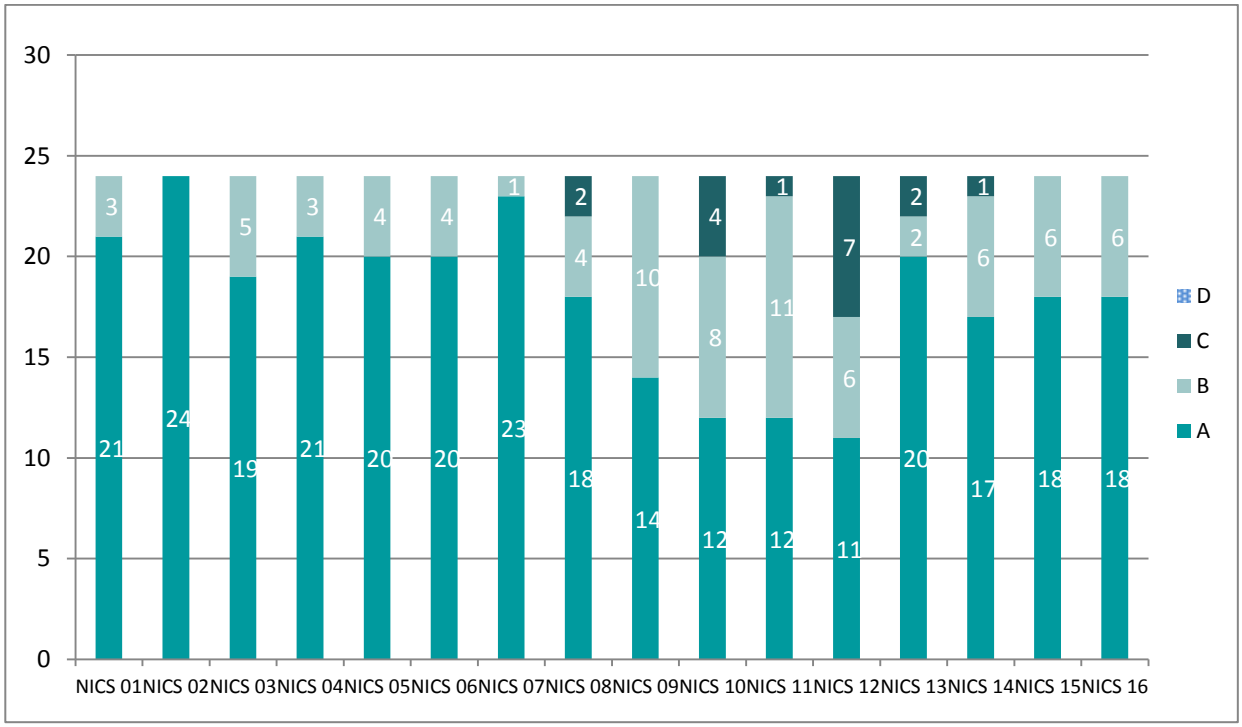
Figure 1. Implementation of planned FMC actions 2014



Source: HDMF PIFC Consolidated Annual Report for 2014 of 25 May 2015.

One of the five COSO elements supporting FMC is the system of internal control. Another section of the Annual Report shows the CPA level performance against the National Internal Control Standards (NICS) (Figure 2). This shows a better level of performance than would be expected from the implementation of actions for 2014 shown above.

Figure 2. Compliance with National Internal Control Standards



Note: A is the highest level of implementation and D the lowest, defined specifically for each standard.

Source: The National Internal Control Standards Public Internal Financial Control Consolidated Annual Report for 2014 dated 25 May 2015.

Analysis from the Annual Report shows the self-assessed position signed off by IA for each organisation at the highest one or two levels. Inevitably, any lack of technical understanding of FMC issues within an organisation raises the risk that its position is worse than indicated in the report. In addition, many other smaller organisations are not covered by the survey, but are nonetheless required to implement FMC, with fewer resources.

One of the principles underpinning FMC is managerial accountability. This foresees delegated management responsibility within the hierarchical framework of the organisation. Neither the PIFC Law nor the new Budgetary Accountability Law[481] provide for the budget delegation required for effective managerial accountability and thus FMC. The recent Public Expenditure and Financial Accountability Assessment concluded that "the concept of managerial accountability is still not acknowledged among the management" [482].

The ability to develop FMC is supported by financial management systems. Each ministry has its own accounting system operating on an accruals basis. Quarterly accounts from the systems (including a balance sheet) form the basis for discussions about programme budget performance with the MoF.

Development of FMC at an organisational level is lagging behind development of the overall framework. This is demonstrated by the low level of implementation of actions planned for 2014.

Key recommendations

Short-term (1-2 years)

1) The MoF should secure more tangible support for FMC development from the Government through formal conclusions and specific decisions related to approval of the Annual Report on PIFC.

[481] Law No. 181 on Public Finance and the Budgetary and Fiscal Accountability of 25 July 2014.

[482] Public Expenditure and Financial Accountability Assessment Update for Moldova (2012-2014) of 22 September 2015, Indicator PI-20, Section on FMC, pp. 112-3.

2) The MoF should provide greater detail on the FMC steps required in response to the PIFC Action Plan.

3) The MoF should establish rules for greater leadership and support for FMC development within organisational senior management (an appointed FMC co-ordinator who is a senior manager within the existing management structure) to work with IA to support the improvement of financial management.

4) The MoF should carry out more detailed follow-up of FMC reports from IA units, with direct gathering of evidence from budget organisations on a sample basis, to provide greater insight into the findings and greater accuracy of FMC progress reports.

5) The MoF should gather practical lessons from current FMC development to provide guidance for wider implementation of FMC.

Medium-term (3-5 years)

6) The MoF should prepare a financial management training programme for relevant public sector employees and start implementation of this programme.

7) The MoF should create conditions for budget organisations to delegate budgets within their management structures to encourage further development of FMC and management accountability.

2.4. Key requirement: The internal audit function is established throughout the public sector and internal audit work is carried out according to international standards.

Baseline values

The functioning of IA is examined through two qualitative indicators, one covering ten critical elements for an effective IA framework as defined in the Principles of Public Administration[483], and the other covering the quality of IA reports, largely based on Moldova's own guidance. These are complemented by three quantitative indicators to deal with levels of staffing and training, as well as compliance with national planning requirements.

The framework for IA is better established than FMC in Moldova. There was a substantial increase in the proportion of organisations forming IA units as required (50% in 2013 and 79% in 2014). The value for the indicator for qualified IA staff reflects the fact that none have international qualifications. The value for the indicator on the quality of internal audit reports reflects the fact that less than half of the selected organisations were able to present audit assignment reports.

[483] SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 87 – 89.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which the operational framework for internal audit is designed and in place.	2015	3
	9	Quality of internal audit reports.	2015	0[484]
Quantitative	8	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	2015	79%
	8	Share of internal auditors with a national or international internal audit certificate.	2014	32%
	9	Share of organisations with annual internal audit plans conforming to national legal requirements.	2014	48%

Analysis of Principles

Principle 8: The operational framework for internal audit reflects international standards and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.

The operational framework for IA has also been in place for some time and is established by the PIFC Law[485]. This applies to organisations in the same way as FMC, except that implementation of IA is only mandatory for the top two levels of government. The legislation also establishes the HDMF in order to further develop IA. Out of a total of seven staff of the HDMF, three are engaged in IA work. The HDMF is supported by the PIFC Council. (See Principle 6 for more details.)

Primary legislation on IA is brief, relying on secondary legislation, a technical Internal Audit Manual and other guidance for issues such as IA standards[486] and audit charters. The framework does not prescribe levels of staffing or suggest alternative forms of IA provision for different sizes of organisations, such as consortiums or contracted arrangements for the smallest organisations that cannot justify employing their own internal auditors. Of the 57 organisations required to have internal audit, only 45 have set up such units[487].

Overall, there was a net increase in the number of internal auditors in 2014 (from 108 to 125)[488]. A national training programme for certification of internal auditors, including a qualifying examination, has been set up, and the number of qualified auditors increased from 33 to 40 in 2014[489]. These figures mask a high turnover in IA staff, about 30% per annum at CPA level[490]. None of the staff have international qualifications[491], and Moldova is reliant on twinning partners for specialist skills such as

484 Only three of the requested sample of ten internal audit assignment reports were received.

485 Law No. 229 on Public Internal Financial Control of 23 September 2010, Chapter 111.

486 This is essentially a translation of the Professional Standards published by the Institute of Internal Auditors without the extensive "Interpretation" sections that provide valuable guidance.

487 Data provided by the MoF.

488 Ibid.

489 Ibid.

490 Figures supplied by HDMF for CPA institutions for 2014 and 2015.

491 Information provided by the MoF.

the vitally important information technology (IT) audit. All internal auditors are provided with training, and the current level of turnover represents a significant loss of expertise, which will inhibit the development of the IA function in Moldova.

Development of IA is also covered by the PIFC action plan[492], and progress is covered in the same way in the HDMF Annual Report on PIFC to the Government. External quality assurance of internal audit work is required every five years by international standards, but arrangements for this have not yet been introduced. Future plans include "revision of the existing regulatory framework on the establishment, co-ordination, organisation and functioning of internal audit and local public administration authorities"[493]. This should also include appropriate and achievable requirements for smaller organisations.

Extensive guidance material is available for internal auditors, including manuals and templates. Much of this was developed with the assistance of the recently ended Twinning Project[494] and is applied with more flexibility than in many countries. For example, there are report formats in the Internal Audit Manual which provide some mandatory headings, but heads of IA units are able to agree with their top managers on additional reporting arrangements. These are set out in the relevant Internal Audit Charter.

As not all the organisations required to do so have set up IA units, not enough internal auditors have formal qualifications and the annual report of the MoF does not clearly analyse the quality of internal audit work, the value of the indicator for the operational framework for IA is 3.

The operational framework for internal audit is in place and is largely in line with international standards. Specific provisions for ensuring appropriate internal audit coverage among smaller public organisations are not in place. Not all public organisations required to have internal audit have set up internal audit units.

Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents as appropriate to the organisation.

At the end of 2015, 79% of the organisations required to set up IA have done so, a significant improvement on the previous year (when 50% of such organisations had IA units).

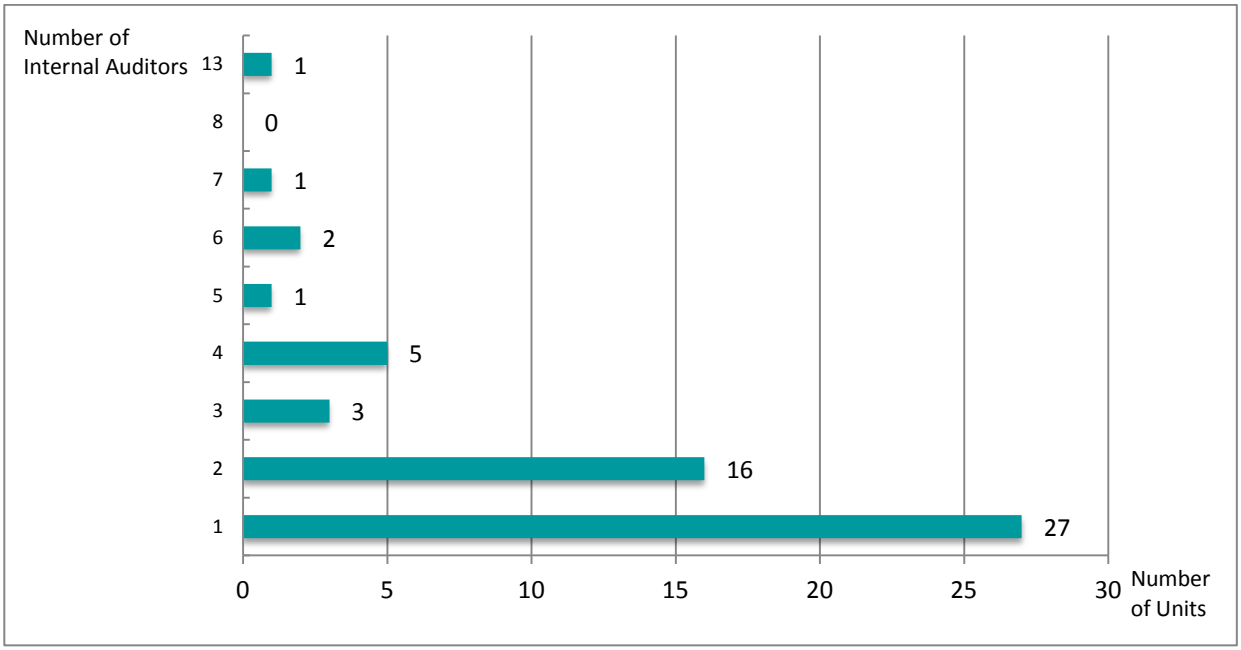
The legal framework requires organisations at CPA and LPA level to set up their own IA arrangements, but does not prescribe minimum staffing levels. Capacity for IA had to be created by re-organising staff within existing staffing levels. Almost half of the IA units have a single internal auditor (Figure 3).

[492] Development Programme for Public Internal Financial Control for the years 2014-2017, Decision No. 1041 of 20 December 2013.

[493] Ibid., Annex.

[494] Twinning Project "Strengthening Public Financial Management in the Republic of Moldova".

Figure 3. Numbers of staff in post at each internal audit unit



Source: HDMF PIFC Consolidated Annual Report for 2014 of 25 May 2015.

It is difficult to recruit and retain staff of suitable ability and provide appropriate experience and training within these small units, especially given the high levels of turnover. In particular, IA standards envisage a level of review and supervision within the IA structure[495] which is not possible within these units. Options for IA provision are being considered for LPA level organisations. These should include shared or contracted IA services.

IA unit reports to the HDMF for 2014 show that most comply with the requirements of the IA framework, but there are some exceptions. Of the 45 IA units established, 2 are not distinct organisational units and 2 have staff with responsibilities other than IA. In both cases, this compromises their independence and objectivity. Only 43% of IA units have strategic plans.

Reports to the HDMF also show an average of 5.2 assignments per year per IA unit and 2.4 per year per internal auditor. Within these averages, productivity ranges from 0 to 11 assignments per internal auditor. Of all assignments, 22% are described as *ad hoc*, with the risk that they compromise planned assurance work. Some of this variation in the number of assignments results from late appointments of staff during the year or from time spent on training, but in developing an effective IA function across Moldova, the HDMF needs to ensure that it understands other possible reasons for variation in performance.

A factor in this variation may be the amount of time spent on FMC development. IA is seen as the primary driver to provide training and assurance within organisations, in addition to preparing an annual assessment of compliance with Internal Control Standards and PIFC Action Plan targets.

A sample of ten IA assignment reports issued late in 2015 was requested, but only three reports were submitted for assessment. It is therefore not possible to assess whether a majority of IA units actually prepare audit reports on a regular basis. As a result, the value of the indicator for quality of internal audit is 0. The three audit reports received all met the national requirements for their content and, in addition to focusing on compliance to rules and procedures, they partially addressed weaknesses in internal control systems. However, they did not assess value for money.

[495] National Internal Audit Standards of 12 October 2012, Attribute Standard 2340 Engagement Supervision, Order No. 113.

Many IA units have just a single internal auditor, which is not conducive to an efficient and effective IA service. There is a significant variation in the number of assignments completed per internal auditor.

Key recommendations

Short-term (1-2 years)

1) The MoF should continue to support the basic capacities of IA units through training, regular networking and updating guidance material.
2) The MoF should establish arrangements for IA in small organisations to overcome the risks and inefficiencies of single-person IA units.
3) The MoF should carry out more detailed follow-up of the IA annual reports submitted, and gather evidence directly from institutions on a sample basis to provide greater insight into the findings and greater accuracy.

Medium-term (3-5 years)

4) The MoF should establish thorough quality assurance arrangements in accordance with international standards and use these to feed into training requirements for the future.
5) The MoF should establish national, sustainable IT audit arrangements.

2.5. Key requirement: Public procurement is regulated by duly enforced policies and procedures that reflect the principles of the Treaty on the functioning of the European Union and the European Union *acquis* and are supported by suitably competent and adequately resourced institutions.

Baseline values

The key requirement for harmonisation with the Treaty principles and *acquis* governing public procurement, as well as the establishment of institutional structures and arrangements, is examined through six qualitative indicators[496]. They are intended to assess the legal basis for public procurement, its instruments or functions, and also implementation of the law and related rules. Two indicators describe the extent to which the legislation is complete and enforced, covering the eight main goals defined in Principle 10 and the openness to the public (participants of the market) of the administrative bodies involved in policy making. The two further indicators concern the extent of development and implementation of the policy framework and the existence and performance of dedicated institutions for central procurement functions.

The values indicated reflect shortcomings in the applicable legislation and the institutional framework, significant gaps in the coverage of certain fields, and the lack of a long-term strategic policy framework.

[496] SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 96-104.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	10	Extent to which public procurement legislation is complete and enforced.	2015	3
	10	Nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness.	2015	2
	11	Extent to which policy framework for public procurement is developed and implemented.	2015	1
	11	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	2015	1
	11	Comprehensiveness of systems for monitoring and reporting on public procurement proceedings and practices.	2015	1
	11	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	2015	1

Analysis of Principles

Principle 10: Public procurement regulations (including public-private partnerships and concessions) are aligned with the acquis, include additional areas not covered by the acquis, are harmonised with corresponding regulations in other fields, and duly enforced.

The legal framework for public procurement in Moldova is currently provided by the 2007 PPL. A new PPL was adopted in 2015 (it will enter into force in May 2016, although some provisions will only do so in December 2020), bringing the system closer to EU standards. While the adoption of the new PPL is a positive development, one of the remaining challenges will be adoption and implementation of the secondary legislation, which at the time of drafting are still uncertain, as preparations and planning are at a very early stage.

Overall, the new PPL provides a satisfactory regulatory framework and incorporates the fundamental EU principles governing the award of public contracts. However, the following aspects of the new legislation need to be addressed:

New complaint settlement body: Article 75 of the new law establishes a new body in charge of the review of decisions taken by contracting authorities. Its supervision by the MoF is problematic, because its independence cannot be guaranteed. This is not in line with the terms of the Association

Agreement[497], which require the designation of an impartial and independent body to be responsible for the review procedures[498].

Banned business operators: Article 18 of the 2007 PPL (Article 25 of the new PPL) entitles the Public Procurement Agency (PPA) to draw up a list of "banned business operators", with a view to limiting their participation in public procurement procedures for a three-year period[499]. In December 2015, there were 27 economic operators on this list[500]. This automatic exclusion of economic operators from all procurement procedures for such a long period of time is not consistent with Directive 2014/24[501], which requires a case-by-case approach.

Time limits in the procedure for awarding contracts: By virtue of Article 271(9) of the Association Agreement, Moldova has an obligation to ensure that the award of contracts is carried out respecting "appropriate time limits", which for expression of interest and submission of offers, should be sufficiently long to allow economic operators to make a meaningful assessment of the tender and prepare their offer. The new PPL sets longer mandatory minimum time limits for each type of award procedure in the case of contracts with values above the thresholds[502], but the relevant provisions are subject to a transitory period[503] and will only enter into force on 31 December 2020.

Mutual recognition of qualifications: The same transitory period applies to Article 22(2) of the new PPL, which contains an obligation to comply with the principle of mutual recognition and accept equivalent certificates issued by established bodies in the EU Member States. Postponing the implementation of this provision constitutes an obstacle to equal access for EU economic operators to the Moldovan procurement market.

Furthermore, the existing legislative framework does not transpose the Defence Directive 2009/81[504] or the Utilities Directive 2014/25[505].

As far as concessions and PPPs are concerned, the applicable legal instruments are: (a) the 2008 Law on Public-Private Partnership[506], incorporating the legal framework for PPPs, including concessions as a form of PPP; and (b) the 1995 Law on Concessions[507]. Both were substantially amended in 2010. In addition, by virtue of Article 2(5), the PPL is also applicable to the various forms of PPPs "which are not

497 The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, on the one part, and the Republic of Moldova, on the other part, signed on 27 June 2014. Ratified by the Parliament of the Republic of Moldova on 2 July 2014 and by the European Parliament on 13 November 2014, (OJ L 260 of 30 August 2014, pp. 4-738).

498 Ibid., Article 270(2).

499 Further elaborated in Regulation No. 45 of 24 January 2008 on Drawing up and Maintaining the List of Banned Economic Operators, Official Gazette Nos. 21-24/2008 of 1 February 2008.

500 Public Procurement Agency, List of Prohibited Suppliers, http://tender.gov.md/ro/lista-de-interdictie.

501 See Article 57 of the Directive and judgment of the Court of Justice of the EU of 13 December 2012, C-465/11, *Forposta.*

502 See the following provisions of the new PPL: Article 45 (open procedure), Article 49 (restricted procedure), Article 52 (competitive dialogue), Article 53 (negotiation procedure with publication of a contract notice), and Article 56 (competition of solutions).

503 By virtue of Article 83(2) of the new PPL.

504 Directive 2009/81/EC of 13 July 2009 on the co-ordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216 of 20 August2009, pp. 76-136).

505 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, of 28 March 2014, pp. 243-374).

506 Law No. 179 on Public-Private Partnerships of 10 July 2008.

507 Law No. 534 of 13 July 1995.

forbidden under the Law as well as in the case of awarding concession contracts for public works". This legislative framework is outdated and requires revision in light of the 2014 Concessions Directive[508].

In certain areas, the secondary legislation provides detailed requirements which go beyond the scope of the primary law. For example, for public procurement of works, the provisions of the secondary legislation[509], without a basis in the primary law, allow the contracting authority to proceed with evaluation of tenders only on condition that at least three bidders have presented their offers.

Given recent developments and remaining weaknesses, the value of the indicator measuring the extent to which legislation is complete and enforced is 3.

There is a functioning mechanism for facilitating public consultations in the legislative process, which is governed by the Law on Transparency in the Decision-Making Process[510]. The MoF is nominally in charge of collecting and processing comments concerning the procurement legislation. In 2015, in the field of public procurement, three public consultations were conducted, on the subject of the draft utilities law and secondary legislation[511]. As far as the new 2015 PPL is concerned, a public consultation was held in 2012, three years before its adoption by the Parliament through an accelerated procedure. Such considerable lapses of time between the consultation and adoption phases of the legislative process undermine the added value of public involvement.

Consequently, the value of the indicator for the nature and extent of public consultations during the process of developing regulations and monitoring their use and appropriateness is 2.

A new PPL was adopted in 2015. While it generally aspires to a further approximation of national legislation to EU rules, significant problems remain, such as indistinct blacklisting of economic operators, transitory periods postponing the entry into force of the provisions on minimum time limits for submission of offers, mutual recognition of certificates originating in the EU, and the lack of independence of the newly created review body. The EU Defence and Utilities Directives are not transposed. The process of adoption of public procurement regulations is, in principle, transparent. However, there was a significant lapse of time between the public consultations and the actual passing of the new law.

Principle 11: There is a central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.

The country lacks a long-term strategy for development of the public procurement system. Article 272 of the Association Agreement imposes an obligation to submit a comprehensive roadmap for the implementation of the public procurement Chapter with timelines and milestones, which includes all reforms in terms of approximation to the EU *acquis* and institutional capacity building. While a roadmap has been drafted, its approval is still pending. As a consequence, the value of the indicator measuring the extent to which the policy framework is developed and implemented is 1.

As mentioned previously, the MoF is in charge of overall policy and law making in the field of public procurement but is clearly understaffed (the responsible unit at the Ministry consists of two people[512]). The PPA is a specialised administrative body under the authority of the MoF, entrusted with policy implementation as well as monitoring, supervision, control, intersectoral co-ordination and, under the 2007 PPL, review and legal remedies in the field[513]. More specifically, the PPA is primarily tasked with drawing up, maintaining and updating the lists of qualified and banned economic operators, drawing

508 Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94 of 28 March 2014, pp. 1-64).

509 Regulation No. 834 of 13 September 2010 on Public procurement of works, Official Gazette No. 169-171/2010 of 17 September 2010, Section 8, Point 118.

510 Law No. 239-XVI of 13 November 2008, Official Gazette No. 215-217/2008 of 5 December 2008.

511 Data provided by the PPA.

512 Ibid.

513 Articles 8-9 of 2015 PPL, Articles 8-9 of 2007 PPL.

up standard documents and contract models, providing methodological and training assistance to contracting authorities, and running the Public Procurement Bulletin which publishes tender notices. The PPA has 54 employees.

While the primary responsibility for conducting public procurement procedures (including planning and execution) is decentralised to contracting authorities, the PPA carries out centralised review and approval of contract awards, through review and registration of the tender documents and concluded public procurement contracts submitted by contracting authorities[514]. In principle, this *ex ante* review of public procurement operations potentially presents a significant advantage in providing additional safeguards against errors and misuse of power in the application of the public procurement procedures by contracting authorities. However, the potential advantages must be weighed against the burdens that this system generates.

First, the PPA is unable to provide a high-quality review given its relatively limited staff capacity. It operates under very tight deadlines, and some of the tender documents or public procurement contracts require very specific technical knowledge and expertise. In 2014, the Agency received a total of 39 183 documents to process. Revision of the award decision of the contracting authority was requested by the PPA in 146 cases; cancellation of procurement procedures was requested in 84 cases; and in 372 cases additional information was requested[515].

Second, even though the system of approval and registration generally respects the time limits set by the PPL[516], it inevitably prolongs the procurement process and adds to the complexity of the procedures, rendering them more onerous for contracting authorities and economic operators. It was noted by the contracting authorities interviewed by SIGMA that this system can delay certain seasonal public works, which creates considerable burdens for the sector in question and delays the execution of important projects[517].

Last but not least, the system of prior approval and registration by the PPA shifts the ultimate responsibility for decision making away from contracting authorities. This hinders the development of a mature and accountable system. The registry of applications and reports sent to the PPA and approvals it issues is not public.

Given the weaknesses described above, the value of the indicator for comprehensiveness of the monitoring and reporting system and clarity, timeliness and comprehensiveness of information available is 1.

The PPA currently combines its regulatory function with its role as the review body. This is a conflict of responsibilities. The new PPL attempts to rectify this situation by establishing a new review body, the Complaint Settlement Agency (CSA). However, there are concerns as to its independence because it is under the authority of the MoF (see more under Principle 12).

In the field of concessions and PPPs, a unit in the Ministry of Economy (MoE) oversees application of the legislation, whereas the National Council for PPPs[518] (a consultative organ without any decision-making power) is in charge of co-ordination, establishment of priorities, and formulation of strategies and recommendations.

Given the limited capacity of the competent institutions and functional overlaps amounting to conflicts of responsibility, the value of the indicator measuring the extent of coverage by dedicated institutions

514 Ibid. Article 9.

515 2014 Annual Report of the PPA, http://tender.gov.md/sites/default/files/document/attachments/raport_aap_2014.pdf.

516 Report of the Court of Accounts No. 37, *Raportul auditului performanței sistemului de achiziții publice* [Report on the audit of efficiency of the public procurement system] of 1 October 2015, available in Romanian and Russian, http://www.ccrm.md/hotarireview.php?idh=767&l=ro.

517 Meeting between SIGMA and a group of representatives of contracting authorities, Chisinau, November 2015.

518 Established pursuant to the Regulation No. 245 of 19 April 2012 on the National Council for Public Private Partnerships, Official Gazette Nos. 82-84/2012 of 27 April 2012.

of central procurement functions and of regulations defining their roles, responsibilities, working practices, staffing and resources is 1.

There is no long-term strategic vision of the development of the public procurement system. While the MoF is in charge of overall policy and law making in the field of public procurement, the PPA is entrusted with implementation of the policy as well as monitoring, supervision and review. The PPA is unable to deal properly with the workload that its various functions entail. The current system of the PPA combining supervisory, advisory and review functions does not meet the requirements of the EU *acquis* and the Association Agreement.

Key recommendations

Short-term (1-2 years)

1) The MoF should prepare amendments to the PPL to bring it in line with the relevant provisions on compulsory and facultative grounds for exclusion set out in Directive 2014/24/EU, to eliminate the transitory period postponing the entry into force of certain crucial provisions of the new PPL until 31 December 2020 and align the PPL with Article 271 of the Association Agreement.
2) The MoE should elaborate amendments to the existing legal framework governing PPPs and concessions in order to align it with the EU Concessions Directive.
3) The Government should strengthen the capacity of the PPA to enable it to deal efficiently with its current monitoring, review and approval duties, or consider partly delegating them to another competent authority.
4) The MoF should undertake a thorough assessment of public procurement oversight in order to weigh the benefits of the PPA's *ex ante* approval and registration function against the burdens it entails and consider alternative ways of ensuring effective, lawful, economic and efficient procurement, especially in the case of large-value contracts.
5) The Government should strengthen the capacity of the MoF to develop policy and legislation related to public procurement.

Medium-term (3-5 years)

6) The Government should ensure adoption of the new Law on Utilities.
7) The MoF should elaborate the necessary legal acts to ensure the transposition of the EU Defence Directive.

2.6. Key requirement: In case of alleged breaches of procurement rules, aggrieved parties have access to justice through an independent, transparent, effective and efficient remedies system.

The key requirement for the establishment of an independent, transparent, effective and efficient remedies system is examined through six indicators. The quantitative indicators describe the timeliness of the review procedure, the accessibility of the review system for economic operators and the performance of the responsible body. The last indicator reflects the availability of relevant information.

The values indicated reflect the fact that the current system of remedies does not meet requirements for independence and transparency.

	Principle no.	Indicator	Baseline year	Baseline value
Quantitative	12	Actual processing time of complaints related to procurement compared with the maximum legal requirements.	2015	Not available[519]
	12	Number of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints.	2015	Not available
	12	Number of complaints in relation to the number of tender notices published.	2015	Not available
	12	Share of complaints in procurement that are challenged to the next judicial level.	2015	Not available
Qualitative	12	Presence of procurement review and appeal bodies covering the functions. mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work.	2015	2
	12	Presence of user-friendly procurement review website including timely publication of decisions and statistics, with adequate research functions.	2015	0

Analysis of Principle

Principle 12: The remedies system is aligned with acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.

Public procurement review procedures are regulated in Chapter IX of the current PPL (Chapter X in the new PPL).

The task of reviewing and settling disputes between the parties participating in public procurement procedures is currently within the realm of the PPA's responsibility. Complaints can be submitted within ten days from the moment the circumstances justifying the appeal become known[520]. The PPA must adopt a substantiated decision within 20 calendar days of the complaint being lodged[521], and its decisions must be communicated within 3 days of their adoption. At the PPA, five people are in charge of reviewing complaints[522].

519 Here and hereafter, "not available" refers to data requested by SIGMA from the administration during the 2015 Baseline Measurement Assessment but not provided.

520 2007 PPL, Article 72(1).

521 Ibid., Article 72(6).

522 Data provided by the PPA.

Table 1. Key characteristics of the remedies system

	2013	2014	2015 (until the end of June)
Number of complaints reviewed (public sector)	1 179	1 096	406
Number of decisions taken	Not available[523]	Not available	Not available
Share of decisions published	0	0	0
Number of complaints accepted (decision of contracting authority changed)	202	256	97
Number of complaints rejected	600	542	215
Average time of processing the case before the PPA (days)	25	25	20
Number of PPA's decisions challenged to the next judicial level	70	60	50

Source: Public Procurement Agency.

In addition to the problem of the dual role of the PPA as a regulatory and review body, another major shortcoming of the current system is a lack of transparency, as the decisions rendered by the PPA on complaints are not published. The PPA's website provides only minimal information, such as the name and the number of the case, with no access to the full text of the decision.

Article 75 of the new PPL provides for the establishment of a new body, the CSA. Despite being qualified as "an independent administrative authority", this new body would be under the authority of the MoF, and thus its independence could not be guaranteed. This contravenes Article 270(2)b) of the Association Agreement[524].

It is notable that the new PPL introduces an important amendment with regard to transparency of the complaints and dispute settlement process, by requiring the CSA's decisions to be published on its website.

Decisions of the PPA may be appealed in the administrative courts. However, the courts do not have any special means for handling cases related to public procurement. Regarding court decisions, only the case law of the Supreme Court is available online. This poses a problem of transparency with regard to access to information on the review and remedies procedures.

With regard to concessions and PPPs, the only available route for obtaining review or legal remedies is through the ordinary courts.

The new PPL brings an important improvement to the system in recognising the right of the courts to declare a public procurement contract ineffective if it is judged to have been awarded in breach of public procurement rules[525]. This brings the system closer to the EU Remedies Directive.

Based on these considerations, the value of the indicator measuring the presence of procurement review and appeal bodies covering the functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work is 2, and

523 Here and hereafter, "not available" refers to data requested by SIGMA from the administration during the 2015 Baseline Measurement Assessment but not provided.

524 Article 270(2)b) imposes an obligation to designate "an impartial and independent body tasked with the review of decisions taken by contracting authorities or entities during the award of contracts". In that context, 'independent' means that the body shall be a public authority which is separate from all contracting entities and economic operators.

525 New PPL, Article 82.

the value of the indicator measuring presence of user-friendly procurement review website including timely publication of decisions and statistics, with adequate research functions is 0.

Currently the PPA combines supervisory and review roles, which is a conflict of responsibilities. The establishment of a separate complaint settlement authority under the new PPL is a positive development, but the relevant provisions do not guarantee its independence and neutrality as required by the Association Agreement. The PPA's decisions on complaints are not published.

Key recommendations

Short-term (1-2 years)

1) The MoF should elaborate amendments to the new PPL, in particular Article 75, to establish the CSA as an independent body outside of the Government hierarchy in order to ensure impartial and independent review procedures.
2) Once the publication of the decisions is ensured, in line with Article 80 of the new PPL, the CSA should put in place a web-supported search engine to enable navigation through the body of its decisions.

Medium-term (3-5) years

3) Skills of the administrative courts for handling public procurement related cases should be strengthened, and more opportunities should be provided to the members of the judiciary to participate in training activities specific to public procurement.

2.7. Key requirement: Contracting authorities are adequately staffed and resourced and carry out their work in accordance with applicable regulations and recognised good practice, interacting with an open and competitive supply market.

Baseline values

The key requirement for an efficient and professional public procurement system is examined through a package of indicators describing performance of contracting authorities and the public procurement market. The indicator on the extent of use of modern procurement techniques and methods measures the presence and performance of modern procurement tools, such as e-procurement, framework agreements, and the establishment of central purchasing bodies and arrangements.

Moldova is performing rather poorly on the qualitative criteria under this key requirement: efficient use of public funds is hampered by poor procurement planning, poor preparation of tender documents and problems in contract execution. It is not possible to assess the quantitative indicators, because the PPA does not collect the relevant data.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	13	Extent of use of modern procurement techniques and methods.	2014	2
	14	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	2014	2
	14	Professionalisation of procurement officials.	2014	1

Quantitative	13	Share of contracts already announced in published procurement plans or indicative notices.	2015	Not available[526]
	13	Share of contracts awarded by competitive procedures.	2015	Not available
	13	Share of contracts awarded based on acquisition price only.	2015	Not available
	13	Share of contracts amended after award.	2015	Not available
	13	Share of contracts subject to formal post-evaluation.	2015	Not available
	13	Average number of tenders submitted per goods contract to be procured.	2015	Not available
	13	Average number of tenders submitted per works contract to be procured.	2015	Not available
	13	Average number of tenders submitted per services contract to be procured.	2015	Not available

Analysis of Principles

Principle 13: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.

The legislative framework provides a sound basis for proper conduct of public procurement procedures, but weak implementation of public procurement rules by the contracting authorities (errors in the planning, tendering and contract management phases) hampers efficient use of public funds[527].

Despite a statutory obligation to develop annual and quarterly public procurement plans[528], only 5 out of 16 ministries have established such plans[529]. At the planning stage, contracting authorities tend to define the needed goods, services or works without precision. This can backfire at a later stage, requiring either additional financing or redistribution of allocated funds. Purchases made outside public procurement plans, or even outside allocated budgetary funds, have also been detected[530].

Contracting authorities carry out public procurement operations through internally designated units or working groups, which consist of at least five people and conduct the full cycle of public procurement, from planning to conclusion of contract. There are a number of problems related to the functioning of

526 Here and hereafter, "not available" refers to data requested by SIGMA from the administration during the 2015 Baseline Measurement Assessment, but not provided.

527 Statements in this part of the report are based on the findings of the report of the Court of Accounts, *supra* 40, and the Report of the Expert Group, *Achizițiile publice în Republica Moldova: probleme și soluțiare* [Public Procurement in Moldova: Problems and Solutions], Chapter 3 in particular, published in June 2014, http://www.expert-grup.org/ro/biblioteca/item/969-achizitii-publice-moldova.

528 Article 13 of the current PPL, Article 14 of the new PPL.

529 Report of the Expert Group, *Achizițiile publice în Republica Moldova: probleme și soluțiare* [Public Procurement in Moldova: Problems and Solutions], published in June 2014, http://www.expert-grup.org/ro/biblioteca/item/969-achizitii-publice-moldova.

530 For example, purchase of medical equipment worth MDL 50 million made without financial coverage was identified in the Report of the Court of Accounts, *supra* 40.

these working groups. Although the applicable secondary legislation[531] sets out a number of criteria to ensure the proper conduct of public procurement procedures, the presence of public procurement experts is not always guaranteed, and, at times, they are even explicitly excluded from the composition of the working group[532]. This lack of public procurement experts might explain in part why the working groups are unable to prepare adequate tender documentation (for example, failing to describe with sufficient precision the subject matter of the procurement and the required goods or services) or to correctly establish qualification and evaluation criteria, eventually leading to cancellation of tenders. In 2014, the number of tenders cancelled by the PPA or contracting authorities doubled in comparison to 2013[533], and incomplete tender documents were among the main reasons for cancellation[534].

An independent think tank that monitors public procurement procedures in Moldova[535] has identified the following most common irregularities: splitting procurements into small lots in order to avoid regular procedures (several contracts of values just below the thresholds awarded to the same contractor); unjustified use of single-source procurement; irregularities in the qualification process (participation criteria not proportionate or not related to the subject matter of the procurement); unreasonably short deadlines; exclusion of companies for spurious reasons in order to favour a selected company; irregularities in the bid evaluation phase (acceptance of late tenders; modification of tenders submitted; rejection of "unwanted" tenders for formal reasons or even reasons not foreseen by the Law or tender documentation; application of criteria different from those defined in the tender documentation); unjustified rejection of all bids in order to repeat the procedure with different requirements; failure to respect the transparency and debriefing requirements; and unjustified increase of the price during contract execution.

531 Regulation No. 1380 of 10 December 2007, Official Gazette No. 198-202/2007 of 21 December 2007.

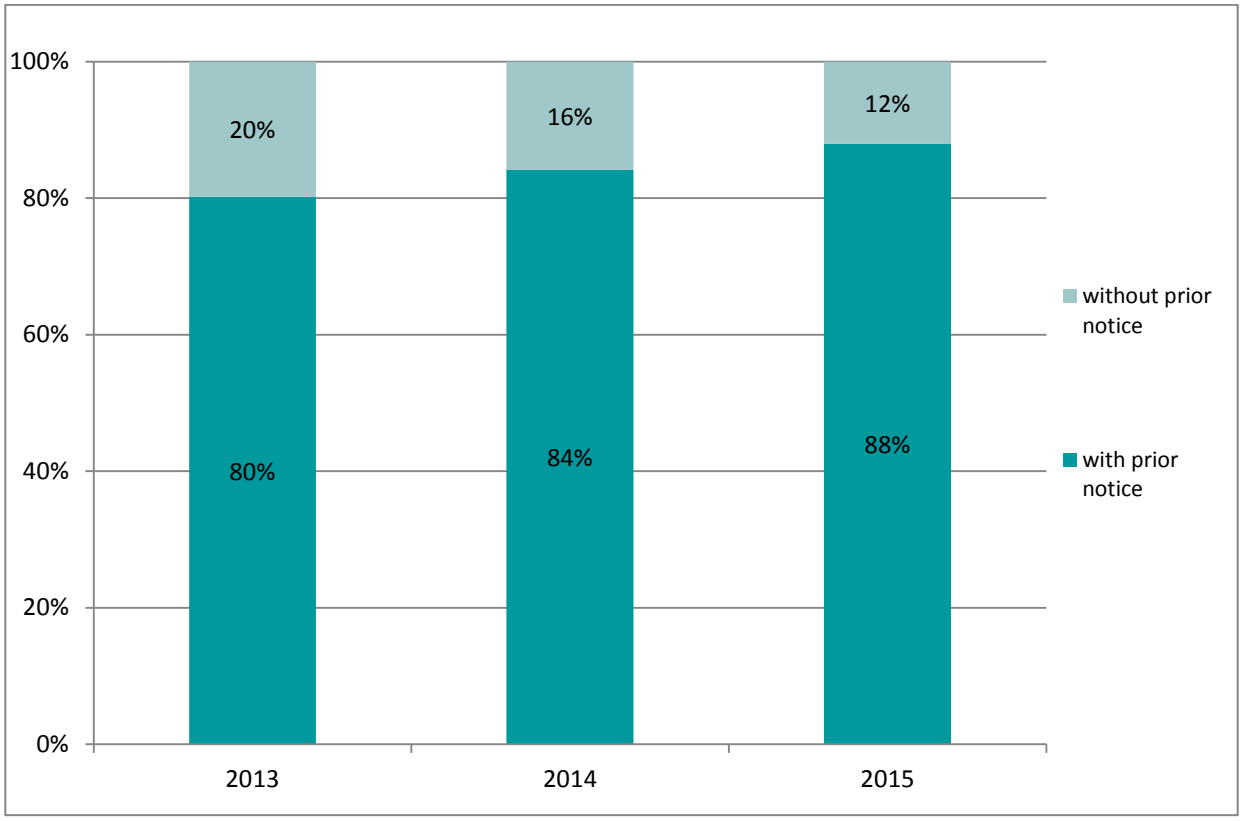
532 Meeting between SIGMA and a group of representatives of contracting authorities, Chisinau, November 2015.

533 According to the data provided by the PPA, 2 469 tenders were cancelled in 2014, representing 15.6% of total tenders for the year, and 1 230 tenders were cancelled in 2013, representing 9.8% of total tenders for the year.

534 Data provided by the PPA.

535 Report of the Expert-Group, *Achizițiile publice în Republica Moldova: probleme și soluțiare* [Public Procurement in Moldova: Problems and Solutions], published in June 2014, http://www.expert-grup.org/ro/biblioteca/item/969-achizitii-publice-moldova.

Figure 4. Number of contracts awards with and without prior notice



Source: the Public Procurement Agency

Use of modern procurement techniques and methods is not advanced. Development of e-procurement has begun, but Moldova is currently awaiting necessary funding from international donors to launch a call for tenders for development of an e-procurement system, expected in 2016. Tender notices are published in the Public Procurement Bulletin, published exclusively in electronic format as of January 2015 and managed by the PPA. An electronic State Register of Public Procurement, managed by the PPA, is currently used by the 220 largest contracting authorities[536]. In light of these factors, the value of the indicator for the extent of usage of modern procurement techniques and methods is 2.

Despite the fact that the legislative framework (in both the 2007 PPL and the 2015 PPL) provides a solid basis for proper public procurement operations, weak implementation contributes to inefficient use of public funds. There are no instruments to support wide application of modern procurement techniques and methods.

Principle 14: Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.

Currently, officials appointed within contracting authorities to be members of the working groups are not subject to any professional certification requirements, and their actual level of education is not monitored[537]. Tasks related to public procurement are frequently carried out in parallel to other professional duties that are sometimes unrelated to public procurement.

Weak implementation of public procurement legislation accentuates the need for delivery of adequate training and capacity-building support. Although advisory and training input is considered one of the PPA's priorities[538], this segment of the PPA's activities is currently performing relatively weakly. While

536 Meeting between SIGMA and the PPA, Chisinau, November 2015.

537 Data provided by the PPA.

538 Meeting between SIGMA and the PPA, Chisinau, November 2015.

1 655 people were trained in 2014, only 37 people received training in 2015, mainly at the request of the contracting authorities themselves. Such weak training output on the part of the PPA is especially alarming given that the new PPL will enter into force in May 2016, and the PPA will have to organise timely explanatory activities and workshops on the changes under the new Law. Contracting authorities acknowledge the current lack of training, which can lead to divergent interpretations of the PPL[539]. Training does not touch upon concessions/PPPs, which are within the competence of the MoE, and there is no training for economic operators. Moreover, training provided by the PPA does not take into account the needs of the participants, and it has been pointed out that the PPA generally lacks information on the number and composition of the working groups needing training[540].

As a consequence of these concerns, the value of the indicator for professionalisation of procurement officials is 1.

There is a solid body of standard documents, templates and forms available on the website of the PPA[541], including a comprehensive User Guide for the State Register of Public Procurement[542], for contracting authorities and economic operators. But these documents have not yet been adapted to reflect the entry into force of the new PPL. Only two people are in charge of professionalisation and capacity building at the PPA[543]. A guide on public procurement good practices is currently being elaborated[544], which will also address the most common mistakes made by contracting authorities in the process of public procurement and help to prevent divergent interpretations of the Law.

In light of these issues, the value of the indicator for the nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials is 2.

Capacity building and training activities carried out by the PPA are insufficient, especially against the background of the imminent entry into force of the new PPL. Professional training and advice are delivered to contracting authorities only on request, and lack regularity and focus. No training is currently provided for economic operators. Training in relation to concessions/PPPs (which falls within the competence of the MoE) is inexistent.

Key recommendations

Short-term (1-2 years)

1) The PPA should intensify its training activities and offer targeted professional assistance to the staff of contracting authorities in charge of public procurement operations (such as working groups), as well as to economic operators.
2) The MoE should provide training and advisory assistance on concessions/PPPs to contracting authorities and economic operators.

Medium-term (3-5 years)

3) The MoF should elaborate amendments to the PPL to introduce professional requirements for the members of the working groups, possibly monitored through a certification procedure. Alternatively, the MoF should evaluate thoroughly the system of working groups with a view to abolishing them and eventually setting up permanent public procurement units within contracting authorities.

539 Meeting between SIGMA and a group of representatives of contracting authorities, Chisinau, November 2015.

540 Report of the Court of Accounts, *supra* 40.

541 PPA, Document Templates, http://tender.gov.md/ro/documente/modele-de-documente.

542 PPA, User Manuals, http://tender.gov.md/ro/content/manuale-de-utilizare.

543 Data provided by the PPA.

544 Data provided by the PPA.

2.8. Key requirement: The constitutional and legal framework guarantees the independence, mandate and organisation of the Supreme Audit Institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high-quality audits that impact on public sector functioning.

Baseline values

The legal framework of the CoA is examined through three quantitative indicators and two qualitative indicators, by reviewing the Constitution, the legislation governing the CoA (including internal rules and procedures) and other relevant documents. Functioning of the CoA is examined through three quantitative indicators and one qualitative indicator, by analysing relevant documentation. All data collected is supplemented by interviews.

A legal framework for an independent and well-functioning Supreme Audit Institution (SAI) has been established in Moldova, and its work is published regularly, although the Constitution does not specifically provide for the independence and mandate of the CoA. The CoA is still developing its auditing practices to comply fully with the ISSAIs, and follow-up by the Parliament on the CoA reports is weak, undermining their potential impact. The values of the qualitative indicators reflect these issues.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	15	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	2014	3
	15	Extent to which SAI management ensures the development of the institution.	2014	3
	16	Extent to which the SAI uses the standards to ensure quality of audit work.	2014	3
Quantitative	15	Difference between approved budget and realised expenditure of the SAI.	2014	-2.1%
	15	Share of SAI budget in the state Budget.	2014	0.1%
	15	Amount of resources used for mandatory audits compared with resources for audits selected independently by the SAI.	2014	58.5%
	16	Proportion of audit reports published on the SAI website compared to total audit reports adopted.	2014	95%
	16	Share of audit recommendations accepted and implemented by auditees.	2014	10.2%
	16	Share of timely audit reports.	2014	97.6%

Analysis of Principles

Principle 15: The independence, mandate and organisation of the Supreme Audit Institution are established and protected by the constitutional and legal framework and are respected in practice.

The CoA is a constitutional institution but its independence and mandate are not enshrined in the Constitution. The Constitution refers to its powers being further enshrined in organic law. The Law of the Court of Accounts (CoA Law) provides the CoA with its statutory independence and a broad mandate for its activities[545].

The law provides for the independence of the President and Court members[546], and none have been removed during their term of office which, at five years, is relatively short. It can be renewed for one further term.

The President of the CoA was temporarily suspended by a decision of the Parliament on 28 May 2015 to enable him to run in the Chisinau mayoral elections on 14 June 2015[547].

The CoA's budget is presented to and approved by the legislature without any intervention by the executive, although a constraint is placed on the CoA's use of its budget as the maximum number of staff by the Parliament.

The CoA has generally not been restricted in its activities, and has had unrestricted access to premises and information[548]. However, since 2012, one agency has prevented the CoA from carrying out a performance audit[549]. It challenged the legal authority of the CoA to undertake an audit because the agency's specific law indicates that its financial audit should be done by a private auditor. This is subject to legal proceedings.

The CoA submits to the Parliament all audit reports required by its mandate and adopted by the CoA, and they are published in the Gazette and on the website of the CoA. The information on the CoA's website shows a strong pattern of publication of reports and general press releases about its activities.

The CoA's independence, mandate and organisation are established and protected by the overall legal framework, with one exception: the Constitution itself does not clearly provide for the independence of the CoA. The CoA's role and mandate are also generally respected, except for the instance noted above. Based on these factors, the value of the indicator for the independence, mandate and organisation of the CoA is 3.

The CoA's strategic plan for 2011-2015 is published on its website[550], and it has a draft strategic plan for 2016-2020[551], due to be adopted by the end of 2015. The new draft strategic plan has been prepared mainly by the CoA, with input from donor bodies, taking account of current knowledge and the position with current assistance projects. However, it has not been developed on the basis of internal or external gap analysis. The CoA reviews and reports on progress to the Parliament through its annual activity report, which is also published on its website.[552] However, there has been no formal review or monitoring of the strategic development plan, and no clear reporting on the key performance indicators that were developed.

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545 Law of the Court of Accounts No.261-XVI of 5 December 2008, General Provisions, Articles 2-6, and Audit Activity of the CoA, Articles 28-36.

546 CoA Law, Members of the Court of Accounts, Articles 17-22.

547 Parliamentary Decision No. 20 of 28 May 2015.

548 CoA Law, Articles 9 and 29.

549 Information provided by the President of the CoA.

550 CoA Strategic Development Plan for 2011-2015, http://www.ccrm.md/public/files/file/proiecte/Plan2011_2015_Eng_PDF.pdf.

551 Information provided by the CoA.

552 *Raportul de activitate al Curții de Conturi pe anul 2014* [Activity Report Court of Auditors for 2014], http://www.ccrm.md/public/files/file/raport/raport_activitate/Raport_de_activitate_2014_ro.pdf.

The CoA has management and supporting structures which allow it to implement its mandate[553]. However, due to the number of entities that fall within its mandate it cannot examine them all annually. Responsibility for managing audit staff is clearly assigned, as is work in the annual audit programme[554]. The CoA provides for the development of its auditors through a Training and Development Strategy[555], supported by annual training plans based on an analysis of training needs. A significant amount of the training delivered has been through donor assistance programmes. However, the requirements of the CoA Law to have arrangements in place for certification of public auditors have not yet been implemented[556].

Based on the factors regarding the development and review of the Strategic Development Plan and performance indicators, the value of the indicator for the extent to which CoA management ensures the development of the institution is 3.

The independence, mandate and organisation of the CoA are established and protected by the CoA Law, and are generally respected, although they are not specifically provided for in the Constitution. The CoA has a significant number of public institutions covered by its audit mandate, and it is not possible for the CoA to audit all institutions every year.

Principle 16: The Supreme Audit Institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

The CoA adopted audit manuals for regularity, performance and information technology audits in 2009 and 2010[557]. By a decision of the Court in December 2013[558], it agreed to adopt the ISSAIs. The audit manuals are in the process of being revised to reflect the ISSAIs and piloted through a sample of audits by the CoA's Methodology Division. The four audit reports which have been examined indicate that they are generally being prepared in line with international standards.

The CoA has a quality control framework[559] which meets the requirement of ISSAI 40. During 2014 and 2015, the CoA commenced implementation of the framework with a small number of "hot" quality control reviews being undertaken in 2014. The CoA was still in the process of fully implementing the framework during 2015.

The CoA's audit coverage in 2014 amounted to 76% of the state budget. Audit coverage is based on an overall three-year plan (the latest prepared for the period 2014 to 2016), as well as annual audit plans. The plans are risk-based, as required by the internal regulation on the development and implementation of audit plans[560].

During 2014, the CoA prepared 41 audit reports resulting in the adoption of 38 decisions by the CoA. Five audit reports related to the audit of financial statements, with 11 opinions being rendered, of which 6 were unqualified. The CoA has been undertaking performance audits for a number of years, and it reported on five performance audits in both 2013 and 2014.

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553 CoA Order No. 3-d of 17 July 2012.

554 CoA and *Programul activităţii de audit a Curţii de Conturi* [Programme of Audit Work of the Court of Auditors], http://www.ccrm.md/pageview.php?l=ro&idc=97&t=/Audit/Program-de-activitate&.

555 CoA, *Strategiei de instruire şi dezvoltare profesională* [Training and Professional Development Strategy], http://www.ccrm.md/public/files/file/resurseumane/STRATEGIA_profesionala.pdf.

556 CoA Law, Public Audit Staff, Article 25.

557 CoA Audit Manuals, http://www.ccrm.md/pageview.php?l=ro&idc=33&t=/Audit/Metodologie-de-audit.

558 CoA Decision No. 60 of 11 December 2013.

559 Information provided by the CoA.

560 CoA, *Regulamentul cu privire la elaborarea, modificarea şi urmărirea realizării Programului activităţii de audit a Curţii de Conturi* [Regulation on the development, modification and follow-up of the Programme of Audit Work of the Court of Auditors, http://www.ccrm.md/public/files/file/Activitatea%20Contro/Metodologie/H63_2010_an1-R_ElabProgActiv.pdf.

The CoA submits all its reports to the Parliament. There is currently no formal procedure for the handling of the CoA's reports by the Parliament, and scrutiny of the CoA's reports is limited and not well developed, with only four reports examined by Parliamentary Commissions in 2014. The CoA report on the execution of the State budget for 2013, submitted in October 2014, was not considered by the Parliament until November 2015[561].

The Methodology Division of the CoA monitors the implementation of recommendations by audited entities. For 2014, the CoA made 795 recommendations, of which only 81 were implemented by the end of the following year, although a further 121 were partially implemented. However, it should be noted that a number of recommendations were not past the due date for implementation, as the time frame for implementation of recommendations can be between 6 and 27 months, depending on their nature.

Based on the factors above, the value of the indicator on the extent to which the CoA uses international standards to ensure the quality of its work is 3.

The CoA is developing its professional practices in line with the international standards, and publishes audit reports meeting the standards. However, the number of recommendations implemented by auditees by the end of the following year is low, and the Parliament's scrutiny and deliberation on the CoA's individual reports is not well developed.

Key recommendations

Short-term (1-2 years)

1) The CoA should develop an audit strategy to ensure that all accounts within its mandate are audited on a regular basis.
2) The CoA should ensure that training is in place to ensure the development of staff professional skills to enable effective implementation of the revised ISSAI-based audit manuals.
3) The CoA should take further measures to improve the rate of implementation of its recommendations by auditees.
4) The CoA should hold awareness-raising events for Members of the Parliament and auditees to educate stakeholders on the implications of the CoA's conclusions and recommendations and the importance of their implementation by auditees.
5) The CoA should establish effective arrangements with the Parliament for dealing with the broad range of issues and public institutions covered by CoA audit reports.

Medium-term (3-5 years)

6) The CoA should endeavour to have its independence and mandate clearly enshrined in the Constitution.
7) The CoA should endeavour to have the audit law revised to provide appointments for members of the CoA that are longer than the current term of five years.

[561] Parliamentary Decision No.187 of 5 November 2015.

For more information:

OECD/SIGMA
2 Rue André Pascal
75775 Paris Cedex 16
France

mailto: sigmaweb@oecd.org
Tel: +33 (0) 1 45 24 82 00
Fax: +33 (0) 1 45 24 13 05

www.sigmaweb.org