

# **Global Integrity Scorecard:**

**Moldova**

**2008**

## Reporter's Notebook: Moldova

By Aurel Stratan

A bus carrying 20 people stopped at the Moldovan checkpoint of Leuseni near the Romanian border for a routine inspection. A border guard took passports for verification. A customs officer searched the personal belongings and asked all passengers to state their destinations.

The passengers were going to various countries in the Schengen zone. After a quiet conversation outside with the officer, the driver announced that the visas in several passports were fake. He did not name any names, but suggested that they raise a total of 15,000 euros (US\$22,277) to pay off the customs officials so they would be allowed to continue the trip. Otherwise, the driver warned, the bus would be turned back.

A few of the passengers protested noisily, but after only a few minutes of hesitation nearly all of them agreed to pay up. Only Stanislav refused to pay [he preferred not to use his last name in discussing this story]. He asked the border guard if he could speak to the station chief so he could file a complaint. The border official pointed at his colleague from customs. Infuriated, Stanislav ended his journey and returned to the capital.

Stanislav, 33 years of age, said he paid 3,800 euros (US\$5,642) to an entrepreneur who helped obtain the visa, which turned out to be genuine after all. He borrowed the money intending to reach Spain, and he could not afford to spend any more. He is one of the thousands of Moldovans who dream of finding a job in the West, opinion polls reveal. As a doctor in Chisinau, Moldova, he earned just 2,500 lei (US\$240) a month in a country where the cost of living amounts to a minimum of 4,000 lei (US\$388) a month.

### Moldova: Nowhere to Go?

Average wages in this ex-Soviet state amount to 800 lei (US\$78) a month in rural areas, and 3,000 lei (US\$291) in large cities, according to National Statistical Bureau data. A study by CBS-AXA showed that Moldova provides few incentives for employment, and migration remains the best prospect for many Moldovans.

But the road through the border is difficult to maneuver. Customs officers are aware that many of their compatriots who travel as "tourists" will become illegals when their visas expire. They also know that those with no return plans prefer to give informal payments rather than turn around or complain. Even a European Union (EU) resident's permit may not protect against humiliation by Moldovan border officials.

Liuba, a 40-year-old housekeeper, was travelling to Italy through the Ukraine. Her train stopped in Ocnita, in northern Moldova, for passport inspection. She related: "I have an Italian *soggiorno* (green card), and I was going back to my work in Padova, where I am employed legally. The officer who inspected my luggage demanded 50 euros (US\$74). He did not explain why. When I refused, he turned and walked away with my passport. I immediately regretted my refusal to pay. After all, the sum was reasonable." The train was due to depart in 10 minutes, so Liuba ran and caught up with him. After a bargaining session, she slipped a 20-euro (US\$26) banknote into his pocket and returned to her seat.

Liuba said she didn't know much about the laws, but she realized that she and the officer had committed an offense. But she insists her decision helped her save time and money: "The choice I made was unpleasant, but justified."

### Justice for No One

In Chisinau, the case of Varvara Zingan and her son has been making headlines in the media. Varvara has been demonstrating in front of the Parliament building since July 2007, trying to free her son, Vitalie, from jail. Vitalie is 29 and had spent one year in pre-trial detention before being convicted in 2001 and sentenced to 13 years in prison for imprudent manslaughter arising from a brawl in Grigoriopol, part of the breakaway Transnistrian enclave. Although Moldova does not have jurisdiction over Transnistria, he was tried by a Moldovan court. He was acquitted in 2006, but in June 2007, the conviction was upheld in absentia and Vitalie was imprisoned again.

Mrs. Zingan described her son as a victim of a frame-up orchestrated by high-ranking officials. She said that she had secretly obtained copies of the case files, which she discovered had been fabricated by Transnistrian authorities. "The witnesses were bribed or intimidated. Some links lead to the Chisinau government," she claimed in interviews with *Timpul* and *Ziarul de Garda* newspapers. According to Varvara, Vitalie's misfortune is that the person responsible for the fatal accident is a relative of the Grigoriopol prosecutor and managed to escape prosecution, thanks to his connections.

Varvara said she has proof of her allegations, but she won't use it in a court of law because she doesn't trust the judges. Nor is she willing to file a complaint in the European Court of Human Rights (ECHR), for fear her son will be tortured in retaliation. So, the 49-year-old mother continues her peaceful protests.

In June 2008, Vitalie stabbed himself in the abdomen with a sharp object, reportedly as a result of a psychological breakdown he suffered in the Cricova prison. The wound was severe, but he survived.

### **Going Outside the System**

Weak Moldovan state institutions are one reason why Moldovans give up seeking justice and redress for their grievances, says Galina Bostan, director of the Center for Corruption Analysis and Prevention (CAPC — *Centrul de Analiza si Prevenirea Coruptiei*), a transparency and civil rights nongovernmental organization in Chisinau. "People expect the public functionaries to satisfy their grievances. Once this hope is gone, they turn to [other] measures," Bostan explains.

Varvara Zingan's distrust in the national justice system is shared by most of her fellow citizens. An increasing number of Moldovans choose to defend their rights in the Strasbourg-based European Court of Human Rights. It has become the most respected European institution in Moldova among ordinary people and the last resort for many Moldovans who have been disappointed by their own national courts' decisions, according to the CAPC and Lawyers for Human Rights (JDO — *Juristii pentru Drepturile Omului*), a Chisinau-based nongovernmental organization that represents Moldovans in the ECHR. So far, Moldova has lost 111 challenges by its citizens and another 66 cases are pending deliberation. For 2007, the CAPC has calculated a rate of one ECHR condemnation per 57,000 residents — the highest rate in Europe.

### **Corruption from Head to Tail**

Aneta Grosu, editor-in-chief of *Ziarul de Garda* investigative weekly newspaper, brands the domestic judiciary system as non-transparent and incompetent: "The prisons are overcrowded with people sentenced for stealing chickens, and not one minister accused in the media of contraband or bribery has been held accountable until now."

Moldova's latest corruption scandal involves Interior Minister Gheorghe Papuc, a protégé of President Voronin, who was quietly fired after revelations of his alleged involvement in a record seizure of heroin. In March 2008, a traffic patrol discovered about 200 kilograms of heroin in a small bus in the very heart of Chisinau. The drugs, worth 10 million euros (US\$14,782,000) on the black market, came from Turkey and were headed to Western Europe. Three police officials arrested for their alleged implication in this scheme claimed Papuc knew about the shipment. The Prosecutor-General's Office confirmed the allegations that Papuc was under house arrest and that he was cited as a "witness" in the so-called Heroin Dossier, a story that has been kept under a virtual media embargo. After much drama, half a year later, the president reinstated Mr. Papuc as interior minister, who was declared "clean and ready."

President Voronin, in turn, publicly accused the traffic officers of bribery without bothering to present evidence. Half of them were fired at his order. Commenting on this measure, Mihai Mirzenco, a motorist from Straseni town, said that 30 lei (US\$3) used to be enough to get rid of annoying officers. "Today, I have to come up with 60 lei (US\$6) — the officers claim that their workload has doubled." The Voronin administration has disputed reports that bribe prices have increased.

A police major from the Center for Combating Economic Crimes and Corruption (CCECE — *Centrul pentru Combaterea Crimelor Economice si Coruptiei*), who asked not to be named, recalled a comic but sad story where a suspect offered 5,000 lei (US\$482) to an investigator to drop the charges against him. The investigator invited the suspect to a cemetery at midnight, then ordered the man to

strip naked, climb up a tree, and leave the cash in a hollow. Then, according to the suspect's story, the investigator also got naked and collected the money. Ultimately, the suspect was convicted and sentenced to a lengthy term, despite the alleged bribe. He tried to take revenge by relating his side of story, but the prosecutors laughed it off as too ridiculous to be believed.

Opinion polls conducted by IMAS Inc., and CBS-AXA agencies, well-regarded for their accuracy, show that customs officers, judges and policemen are "traditionally" the most-cited officials in the Moldovan corruption index table.

A specific Moldovan way of looking at bribery is that public functionaries who demand bribes are regarded as dirty, while offering a gift or money as a form of gratitude is considered a "custom," and thus less criminal. The police major remarked, "It's in the blood. People are not ready yet to stop giving bribes, which are an easy way to get a matter solved or to avoid bureaucratic red tape."

## Moldova: Corruption Timeline

**August 1991** — Moldova gains independence after the collapse of the Soviet Union.

**December 1991** — Mircea Snegur gains the majority of votes and becomes the first president of Moldova after independence.

**July 1992** — A cease-fire agreement is signed with the leaders of the separatist movement in the industrial territory to the east of the Dniester river with the support of Russia. The hostilities broke out when Trans-Dniester unilaterally declared independence from Moldova in 1990. The cease-fire agreement is still in effect because of deep differences between the breakaway Transnistria region and the government of Moldova. The two sides have yet to agree upon a final solution to the decades-long conflict.

**July 1994** — The constitution is adopted.

**July 1994** — Parliament grants autonomous status to the Turkic-language-speaking Gagauz region in the southwest of the country. The autonomous Gagauz administration has powers over its own political, economic and cultural affairs.

**July 1995** — Moldova joins the Council of Europe.

**December 1996** — Petru Lucinschi becomes the new president of the country after the elections.

**January 1997** — Ion Ciubuc is appointed prime minister.

**July 1998** — The EU/Moldova Partnership and Cooperation Agreement enter into force and the first Cooperation Council meeting is held. The objectives of this agreement are to promote trade, investment and harmonious economic relations between the European Union and Moldova, to provide a basis for legislative, economic, social, financial and cultural cooperation, and to support the efforts of Moldova to consolidate its democracy.

**January 1999** — A judge in the Chisinau Economic Court is arrested for allegedly accepting a bribe to reduce a fine against a firm. He is sentenced to 10 years in prison.

**February 1999** — Prime Minister Ciubuc announces his resignation amidst opposition from Parliament and the ruling coalition to his efforts to implement market reforms. A new coalition government is formed by Prime Minister Ion Sturza in March.

**November 1999** — The government of Ion Sturza is dismissed by the Parliament as a result of a vote of no-confidence. The government is accused of corruption and mismanagement of the economy.

**July 2000** — Parliament votes to amend the constitution to shift the administration of the country to a parliamentary republic, in which the president is elected by the Parliament instead of the public.

**February 2001** — The Communist Party wins 71 out of 110 seats in the parliamentary elections. Elections are declared to be free and fair by international observers.

**April 2001** — Vladimir Voronin is elected president by the Parliament.

**2002** — The main government institution for fighting corruption, the Center for Fighting Economic Crimes and Corruption (CFECC), is created.

**February 2002** — The State Anti-corruption Council, headed by President Voronin, accuses Deputy Prime Minister Andrei Cucu and Moldovan Ambassador to the United States Ceslav Ciobanu of lobbying for the Ribnita Steel Mill, located in the breakaway Transnistria region, which contributes more than 50 percent of the Transnistrian budget's revenue. The two officials are dismissed from government service.

**June 2002** — The opposition Christian Democratic People's Party (CDPP) asks the prosecutor-general of Moldova to investigate the Russian Lukoil Company, which donated five million Moldovan lei (US\$370,000) to the firm Metal Market for reconstruction of the Pushkin Museum in Chisinau. Opposition leader Iurie Rosca claims that the transaction is a hidden bribe to President Voronin, given to him through his son Oleg Voronin, the director of Metal Market.

**November 2002** — Anatol Cuptov, the minister of Transportation and Communications, is accused of misappropriating public funds and engaging in illegal activities while working for the local government of Balti, and abusing his power in dealing with problems related to the Giurgiulesti oil terminal, located on the Danube river. Cuptov was appointed senior manager of the state enterprise "Giurgiulesti Commercial Port" via governmental resolution no. 1566, several weeks after being ousted.

**October 2003** — Sergiu Afanasiu, the editor in chief at the weekly newspaper *Accente*, is arrested on charges of bribery. Police search the offices of *Accente* and confiscate \$1,500 in cash, although they have neither an arrest nor a search warrant. *Accente* had published articles on corruption, tax evasion and other dishonest acts committed by high-ranking officials such as Security Service Director Ion Ursu, Interior Minister Gheorghe Papuc and Ambassador to the Russian Federation Vladimir Turcan.

**November 2003** — Elections to the People's Assembly are held in the autonomous Gagauz region. The Communist Party and those loyal to it get the majority of seats. The Election Observation Mission of the Organization for Security and Co-Operation in Europe (OSCE) concludes that the elections were conducted in line with international standards for transparency.

**June 2004** — Alina Anghel, who had been writing on cases of governmental corruption for the weekly *Timpul*, is beaten by an unidentified assailant with an iron bar, who leaves her with head injuries and a broken arm.

Constantin Tanase, editor in chief of *Timpul*, declares that he thinks that the assault is connected with Anghel's investigative reports into the case of a luxury car given to Interior Minister Gheorghe Papuc and to the defamation case brought against the paper by the firm Daac-Hermes, which is the importer and distributor of Romanian automobiles in Moldova. Tanase claims that Anghel received a number of telephone threats since the January publication of an article titled "Luxury in the Land of Poverty," in which she revealed the existence of an agreement between the State Chancellery and Daac-Hermes involving luxury Skoda cars.

**September 2004** —Moldova signs the United Nations Convention against Corruption. The convention has not yet been ratified.

**January 2005** — A National Anti-corruption Strategy and the corresponding Action Plan are introduced. The Anti-corruption Strategy recognizes that corruption severely undermines the country's statehood by affecting all areas of public and private life. A monitoring group that will meet on a monthly basis is also established by a presidential decree to ensure the implementation of the action plan.

**February 2005** — The European Union and the Moldavian government agree on a EU-Moldova Action Plan, a "roadmap" of reforms to strengthen the democratic and economic situation of the country and facilitate its Euro-Atlantic integration.

**March 2005** — Elections for the seats of Parliament are held. The Communist Party receives 46.1 percent of the votes, or 56 seats in the 101-member Parliament.

**March 2005** — Police arrest former Defense Minister Valeriu Pasat, supporter of the opposition Democratic Moldova bloc during the March 2005 election campaign, on allegations of pocketing US\$10 million during the sale of 21 formerly-Soviet MiG-29 fighter jets to the U.S. in 1997. The Moldovan government received US\$40 million in the deal. A court sentences him to 10 years in prison, which is later decreased to five years.

**April 2005** — Parliament re-elects Vladimir Voronin as president. At the start of his second term, Voronin promises to focus on European integration and improve living standards and media freedom.

**April 2005** — The Center for Combating Economic Crime and Corruption (CCECC) arrests Valeriu Mostovoi, a former deputy minister of Labor and Social Protection, on charges of extortion. A court finds him guilty of corruption and bans him from holding public office for five years.

**May 2005** — Austrian authorities report the breakup of a human-trafficking ring led by Romanian, Moldovan and Ukrainian criminals, who smuggled more than 5,000 East Europeans to the West.

**October 2005** — Victor Turcanu, president of Victoriabank (one of the largest banks in Moldova), who is accused of allegedly extorting a bribe of \$15,000 in exchange for a sizable loan on privileged terms,

is arrested. He is released after 10 days of interrogation.

**October 2005** — Former secretary of the Chisinau City Council, Vladimir Sarban, is released from detention (where he was held since 2004 for alleged corruption) after the European Court of Human Rights (ECHR) rules that the reasons given by the government for prolonging his detention are not relevant and sufficient.

**October 2005** — The Parliament votes to lift the immunity from prosecution of Our Moldova Alliance (AMN — *Alianta Moldova Noastra*) opposition party leader Serafim Urechean and two of his colleagues, upon the request of the Prosecutor General's Office. They are accused of graft and corruption by the CCECC.

**December 2005** — The European Union Border Assistance Mission (EUBAM) starts operating along Moldova's Ukrainian border to fight against smuggling, strengthen customs procedures and facilitate cross-border cooperation.

**January 2006** — Russian gas supplier Gazprom cuts the gas supply to the country for 17 days when the government refused to pay twice the previous price. The two parties agree on a new price in July 2006 and Gazprom resumes supplying gas.

**September 2006** — The Center for Combating Economic Crimes and Corruption (CCECC) arrests Eduard Musuc, the opposition Social Democrat Party of Moldova (PSDM) leader, on allegations of fiscal impropriety concerning a real-estate deal while he was the director of Megadat.com, which is a leading Internet provider. A court sets bail at sum of US\$154,000.

**November 2006** — The Millennium Challenge Corporation (MCC), an aid agency funded by the U.S. government, approves Moldova's US\$24.7 million Threshold Country Plan to curb corruption.

**March 2007** — Liberal Party members are stopped by numerous police officers while legally marching in the street. Television crew members from PRO TV Chisinau are arrested while covering the march.

**June 2007** — The U.S. State Department reports, "Nationwide local elections in June 2007 showed improvement over nationwide parliamentary elections in 2005, with better access to the media for opposition candidates, and greater evidence of impartiality by the Central Election Commission. While the voting itself generally met international standards, the government's behavior in the campaign period — including bias in state media and misuse of administrative resources — remained a concern. The Communist Party suffered a significant setback, losing the high-profile Chisinau mayoral election and control of numerous local councils to opposition party coalitions."

**October 2007** — The International Press Institute reports, "two police officers brandishing Kalashnikovs brutally pushed a female reporter and a male cameraman of the Chisinau-based PRO TV Channel, in an effort to prevent them from filming a forced eviction of a Chisinau resident from his apartment."

**March 2008** — Prime Minister Vasile Tarlev resigns, citing lack of public support for his government. Deputy Prime Minister Zinaida Greceanii replaces him, becoming the first female prime minister in Moldova.

## Moldova: Facts

The Global Integrity Report provides a mix of qualitative and quantitative information. To encourage comparisons between our data and other international datasets, we have collected a listing of some of our favorite third-party datasets below. We encourage our readers to use this data to make comparisons to the Integrity Indicators, and to use our source data in their original research. If you have done work based on the Integrity Indicators, or are considering it, we want to [hear from you](#).

### [Press Freedom Index](#)

Assessment of how free media is at the national level. **Source:** Freedom House. **More Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Expert Assessment, Scale from 0 (best) to 100 (worst).

### [Economic Freedom Index](#)

Assesses the degree of market-oriented freedoms in a country at the national level. **Source:** Heritage Foundation. **Most Recent Year Published:** 2008. **Year Data Gathered:** Second half of 2006 and first half of 2007. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 100 (best).

### [Human Development Index](#)

Measures achievement in three basic dimensions of human development (life expectancy, educational level, and GDP per capita) at the national level. **Source:** United Nations Development Programme. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 1 (best).

### [Bribe Payers Index](#)

Assessment of the propensity of firms to bribe when operating abroad. **Source:** Transparency International. **Most Recent Year Published:** 2006. **Year Data Gathered:** 2006. **Methodology:** Original business firm survey, Scale from 0 (worst) to 10 (best).

### [Corruption Perceptions Index](#)

Measures the perception of the level of corruption in countries at the national level. **Source:** Transparency International. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 10 (best).

### [Open Budget Index](#)

Assesses how open, transparent, and accessible national budgets are to their citizens. **Source:** International Budget Partnership. **Most Recent Year Published:** 2006. **Year Data Gathered:** 2005; **Methodology:** Expert Assessment, Scale from 0 (worst) to 100 (best).

### [Failed States Index](#)

Aggregates three types of indicators (social, political and economic) which are believed to cause state failure (e.g. massive movement of refugees, internally displaced persons creating complex humanitarian emergencies, etc.). **Source:** Fund for Peace. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Composite data from various sources utilizing a software tool that indexes and scans international and local media reports and other public documents for keywords, low (best) to high (worst).

### [Worldwide Governance Indicators: Control of Corruption](#)

Measures the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests. **Source:** World Bank Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from -2.5 (worst) to 2.5 (best).

### [Worldwide Governance Indicators: Voice and Accountability](#)

Measures the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media. **Source:** World Bank Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from -2.5 (worst) to 2.5 (best).

### [GDP Per Capita \(PPP\)](#)

Gross domestic product based on purchasing power parity (PPP) per capita. **Source:** International

Monetary Fund. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Official government data.

#### Foreign Aid Per Capita (USD)

A measure of aid per capita, which includes both official development assistance (ODA) and official aid, and is calculated by dividing total aid by the midyear population estimate. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2006. **Methodology:** Composite data from official government data, Scale from 0 (worst) to 100 (best).

#### Unemployment Total (% of labor force)

A measure of the estimated unemployment rate. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Official government data, Scale from 0 (best) to 100 (worst).

#### Gross External Debt (USD millions)

Calculation consists of all loans and other types of borrowing (such as bonds and export credits) by the debtor owed to non-residents of the economy. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Composite data from official government data.

#### Poverty Rate

A measure of the percentage of the population living below the poverty line. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** Latest available data from period 1990 to 2004. **Methodology:** Official government data, Scale from 0 (best) to 100 (worst).

#### Gini Index

The Gini coefficient measures income inequality at the national level. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** unavailable. **Methodology:** Official government data, Scale from 0 (perfect equality) to 100 (absolute inequality).

#### Foreign Direct Investment, Net Inflows (as % of GDP)

Calculations based on World Bank data on foreign direct investment. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Official government data, Scale from 0 (low) to 100 (high).

#### Life Expectancy

Annual estimate of life expectancy at birth at the national level. **Source:** United Nations. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2006. **Methodology:** Official government data, Scale from 0 (worst) to 100 (best).

#### Legatum Prosperity Index (Economic Competitiveness)

Measures factors that help to create economic growth and wealth accumulation. **Source:** Legatum Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2008. **Methodology:** Composite data from various sources, Scale from low (worst) to high (best).

#### Legatum Prosperity Index (Comparative Liveability)

Measures individual well-being of a country's citizens. **Source:** Legatum Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2008. **Methodology:** Composite data from various sources, Scale from low (worst) to high (best).

#### Religious Freedom

Assesses the degree of religious freedom at the national level in a country. **Source:** CIRI Human Rights Data Project. **Most Recent Year Published:** 2004. **Year Data Gathered:** 2003. **Methodology:** Expert assessment, 0 (government places some restrictions on religious practices) and 1 (government places no restrictions on religious practices).

**Moldova: Integrity Indicators Scorecard****Overall Score: 68 - Weak**

<b>Category I</b>	<b>Civil Society, Public Information and Media</b>	<b>72</b>	<b>Moderate</b>
I-1	Civil Society Organizations	85	Strong
I-2	Media	57	Very Weak
I-3	Public Access to Information	73	Moderate
<b>Category II</b>	<b>Elections</b>	<b>69</b>	<b>Weak</b>
II-1	Voting & Citizen Participation	86	Strong
II-2	Election Integrity	78	Moderate
II-3	Political Financing	42	Very Weak
<b>Category III</b>	<b>Government Accountability</b>	<b>57</b>	<b>Very Weak</b>
III-1	Executive Accountability	60	Very Weak
III-2	Legislative Accountability	56	Very Weak
III-3	Judicial Accountability	54	Very Weak
III-4	Budget Processes	58	Very Weak
<b>Category IV</b>	<b>Administration and Civil Service</b>	<b>64</b>	<b>Weak</b>
IV-1	Civil Service Regulations	58	Very Weak
IV-2	Whistle-blowing Measures	50	Very Weak
IV-3	Procurement	67	Weak
IV-4	Privatization	79	Moderate
<b>Category V</b>	<b>Oversight and Regulation</b>	<b>74</b>	<b>Moderate</b>
V-1	National Ombudsman	82	Strong
V-2	Supreme Audit Institution	78	Moderate
V-3	Taxes and Customs	73	Moderate
V-4	State-Owned Enterprises	63	Weak
V-5	Business Licensing and Regulation	73	Moderate
<b>Category VI</b>	<b>Anti-Corruption and Rule of Law</b>	<b>71</b>	<b>Moderate</b>
VI-1	Anti-Corruption Law	100	Very Strong

VI-2	Anti-Corruption Agency	67	Weak
VI-3	Rule of Law	61	Weak
VI-4	Law Enforcement	56	Very Weak

## 1: Are anti-corruption/good governance CSOs legally protected?

### 1a *In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.*

**Score:** YES

**References:** Law on the prevention and curbing corruption No.90-XII of April 25, 2008, art.9 - cooperation with civil society Decision of the Parliament of Moldova on the National Strategy of preventing and curbing corruption and the approval of the Action Plan for the implementation of the national strategy No.421 - XV of Dec. 16, 2004

**Social Scientist's Comments:** In 2006, 30 NGOs created an Alliance against Corruption in Moldova. It started to elaborate and present regular (quarterly) monitoring reports on the public sector institutions. Monitoring reports are based on a framework of cooperation with the key-institutions of the national government and specialized agencies, such as the Center for Combating Economic Crimes and Corruption of the Republic of Moldova, government of Moldova.

**Peer Reviewer's Comments:** Since 2006, the Alliance Against Corruption has functioned as an unofficial coalition of CSOs. In fall 2008, the board of the alliance decided to officially register the organization with Moldova's Ministry of Justice. The founders of the Alliance Against Corruption are from several very important CSOs in Moldova.

**Peer Reviewer's Comments:** In 2006, nine NGOs created the Anticorruption Alliance. To date, it has 32 members. See [www.alianta.md](http://www.alianta.md).

**Peer Reviewer's Comments:** The legal right to form citizens' associations and engage in any public interest activities is secured by the Law on Public Associations.

### 1b *In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.*

**Score:** YES

**References:** Decision of the Parliament on the anti-corruption expertise of the legislative and normative acts, No.977 of Aug. 23, 2006 Law on the prevention and curbing corruption No.90-XII of April 25, 2008 Obiectiv, No.6 (21) May 2008, [\[LINK\]](#) - publication edited by the Independent Press Association

**Social Scientist's Comments:** Republic of Moldova is eligible to receive country grants from the Millennium Challenge Corporation. It was selected as a participant at the Threshold Program on Nov. 8, 2005, and signed a Threshold Program agreement on Dec. 15, 2006. On Nov. 8, 2006, Moldova became an eligible country for Compact assistance, and on April 17 2007, Moldova established its National Monitoring Committee and designated a national coordinator - Gov.Decision No.413 of April 17, 2007. The MCC offers large country grants to eligible countries in the

framework of COMPACT programs. More than 25 countries were eligible for Compact assistance in 2007. The MCC allocates funds for investigative journalists who cover corruption, for monitoring the good governance and practices of the public bodies, for raising public awareness, and for research of the corruption index. More info at: [\[LINK\]](#), or [\[LINK\]](#)

**Peer Reviewer's Comments:** The vice president of the US Millennium Challenge Corporation, John Hewko, said Moldova may benefit from full funding from the corporation by fall 2009. (Info-prim Neo news agency, Nov. 20)

**1c *In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.***

**Score:** YES

**References:** Preliminary Country Program of the Millennium Challenge Corporation (MCC), May 13, 2006 Decision of the government on the anti-corruption expertise of the legislative and normative acts, No.977 of Aug. 23, 2006, General dispositions Law on the public associations, No.837 - XIII of May 17, 1996, amended in 1998, 1999, and 2006

**Social Scientist's Comments:** By law, public associations are supervised by the fiscal bodies, and they are held responsible according to the existing legislation for any sort of irregularities they may commit as legal entities functioning in Moldova. There are no specific legal provisions requiring anti-corruption/good governance CSOs to disclose their sources of funding. Nevertheless, NGOs which are associated with the Anti-Corruption Alliance have set the principles of legality and transparency (i.e. of financial means received from the sponsors) that regulate their activities. See [\[LINK\]](#)

**Peer Reviewer's Comments:** The activity of all nongovernmental organizations is supervised by fiscal authorities (accounting standards) and a registering authority (Ministry of Justice). Fiscal authorities receive accounting reports (Balance Sheet, Income and Expenditure Report and others) that contain information on the sources of income. The Ministry of Justice is supposed to receive annual reports from each registered organization that contains an overview of the activities of the organization. These reports also may include information on sources of funding. Organizations that have public utility status, in accordance with law on public associations, (those exempted from VAT on income from mission-related sales and services), have to disclose their sources of funding.

## 2: Are good governance/anti-corruption CSOs able to operate freely?

### 2a *In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.*

**Score:** 25

**References:** Newsletter Obiectiv, No.5 (20), April 2008 - [\[LINK\]](#) - "Top-State Officials' Fortunes - Truncated by The Specialized Committees";

Interview with L. Carasciuc, director of Transparency International - "Moldovans Believe Government Does Not Fight Seriously against Corruption", Newsletter Obiectiv, No.5 (20), April 2008 - <http://www.alianta.md/buleting-upld/d4.pdf>;

Interview with Cornel Virgiliu Calinescu, MOLDLICO, "Failure To Adopt New Laws Compromises The Effectiveness of All Anti-Corruption Efforts in Moldova" Newsletter Obiectiv, No.2 (17), January 2008;

Newsletter Obiectiv, May 2008 "Center for Preventing and Curbing Corruption is angry on the Anti-Corruption Alliance";

Transparency International - Measuring Corruption: From Survey To Survey, Lilia Carasciuc, 2007;

Transparency International - Public Procurement Transparency in Chisinau, Maria Ciubotaru, Veronica Ursu, [\[LINK\]](#)

**Social Scientist's Comments:**

Although the anti-corruption campaign is generally well assessed by state officials, several reports published by the representatives of the Anti-Corruption Alliance were met with irritation by public officials. For instance, there was the case of the first report on monitoring the implementation of the Preliminary Country Plan by the government of Moldova, which was assessed to be "subjective and biased," when the former blamed the Center for being responsible for the lost cases in Strasbourg (European Human Rights Court). I cannot say that the government will hinder the creation of 'anti-corruption' CSOs, but will be distant and will not cooperate with the 'newly established'. An Anti-Corruption Alliance was established in 2006, and since then many NGOs joined the Alliance on a case by case basis. This allows the Alliance to build up its reputation and consolidated position on various issues and subjects, particularly when they are sensitive and more difficult to be addressed by individual members. [\[LINK\]](#)

**Peer Reviewer's Comments:** The leaders of anti-corruption CSOs are included as members in public-private working groups, but usually their opinions are rejected by state officials. Some CSOs declared for national media that state authorities were merely faking cooperation with civic society. For instance, from October 2007 to January 2008, anti-corruption CSOs proposed some very important reforms to the draft of the Law on the Conflicts of Interest, but Parliament ignored them when it adopted the law in final reading in February 2008.

**Peer Reviewer's Comments:** The government does not create serious obstacles to CSOs but does limit formal cooperation with them. The prime minister meets the Anticorruption Alliance every three months, and meetings with other cabinet ministers are held regularly. However, cooperation is on paper and in words but not in deeds.

**Peer Reviewer's Comments:** There have been no cases reported of the government putting barriers for the registration of the anti-corruption/good governance CSOs.

**2b *In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.***

**Score:** 75

**References:** Center for The Analysis And Prevention of Corruption - [\[LINK\]](#) - strives to reduce corruption, contribute to public awareness, study the effects of corruption over the effective functioning of state and public institutions, etc. Transparency international Moldova as a member of the Transparency International - <http://www.transparency.md/about.htm> - has a mandate to organize periodic assessments on the impact of corruption on the social, economic and democratic development of the country; to prepare specific proposals for the government on fighting corruption; and to monitor their implementation, in cooperation with national and international institutions; to raise public awareness about the cause and impact of corruption in all sectors of development. Ziarul de garda, No.194 (4 september 2009), Saracia intretine coruptia Strengthening Monitoring Capacity of the Civil Society in Moldova Program, with support of the MCC and Anti-Corruption alliance of Moldova, Caleidoscop - [\[LINK\]](#)

**Social Scientist's Comments:** As a specific example of voluntary coalition of NGOs in Moldova is the establishment of the Alliance Anti-corruption, which comprises 30 members. On Jan. 13, 2006, the Alliance signed a collaboration agreement with the government of Moldova, which allows it to monitor and supervise the activities of the public sector bodies and interact with the government and the specialized agencies when specific cases of corruption are detected.

**Peer Reviewer's Comments:** The anti-corruption/good governance CSOs have the possibility to engage in the policymaking process, but their proposals are not totally accepted by Parliament and the government. For instance, Parliament rejected proposals by CSOs to change the draft of the Law on the Conflicts of Interest, Law on Preventing and Fighting Corruption, etc. As a result, the efforts of CSOs sometimes are in vain - the proposals of improving the drafts of different laws are only placed on CSOs websites, but not included in the final version of the laws.

**Peer Reviewer's Comments:** ACA has 32 members.

**Peer Reviewer's Comments:** Anti-corruption CBOs are not strong enough to shape the political agenda on corruption issues. International organizations such as the EU, US government and Council of Europe have the strongest leverage with the national authorities. Political parties themselves started to put the issues of corruption in their electoral platform, yet realistically, only the governing coalition can shape the agenda. Anti-corruption CBOs manage to raise the awareness in society about the issues.

**2c** *In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.*

**Score:** YES

**References:** State officials control the main broadcasting company TELERADIO-Moldova, and tacitly acknowledged the re-installation of a new form censorship over experts, civil leaders, CSOs that are most visible. Thus, they've made many attempts to close the door before the NGOs which demanded more transparent discussion over the critical issues of the decision-making process in Moldova. Despite the launching of the 'Strengthening civil society monitoring capacity in Moldova', many organizations claim their activities are banned. Political parties from the opposition are fully excluded from coverage by official mass media, while the media which were officially decoupled from the state ownership, got a specialization to work against the opposition groups- [\[LINK\]](#). No CSOs have been shut down by the government for their work on anti-corruption and good governance.

**Social Scientist's Comments:** Anti-corruption initiatives are currently financed in Moldova by the USAID, MCC and the Academy of Educational Development. The process included the creation of a public policy forum, which promotes and encourages dialogue, constructive engagement and partnership building among civil society, media and the government, regarding corruption issues.

### 3: Are civil society activists safe when working on corruption issues?

**3a** *In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.*

**Score:** YES

**References:** No cases of imprisoned CSO activists working on corruption issues are known.

**3b** *In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.*

**Score:** YES

**References:** There were no major cases of harassing civil society activists or mass media representatives working on corruption, although some media reported growing pressures from the state bodies when their investigative reports went too far in accusing the SIS (Intelligence Services). See Declaration on harassment of SIS in the Ziarul de Garda Newsletter, Sept. 19, 2008 - [\[LINK\]](#).

**3c** *In practice, in the past year, no civil society activists working on corruption issues have been killed.*

**Score:** YES

**References:** No civil society activists working on corruption issues have been killed in the past year in Moldova.

#### 4: Can citizens organize into trade unions?

##### 4a *In law, citizens have a right to organize into trade unions.*

**Score:** YES

**References:** Constitution of the Republic of Moldova (1994), art.42 - right of citizens to establish and be members of a trade union (1-2); Art.43 - right to labor and labor protection (1-4). Law on trade unions - No.1129 - XIV of July 7, 2000

##### 4b *In practice, citizens are able to organize into trade unions.*

**Score:** 50

**References:** Prime Minister V.Tarlev states "partnership between local administration and trades is conducive to the implementation of the development programs in Moldova," [\[LINK\]](#)

Freedom House 2008, [\[LINK\]](#)

Moldova.azi - Trade Unions Reiterate Intentions To Protest in Chisinau-- [\[LINK\]](#)

Moldova: Poverty Wages on The Door Step of Europe, Kt. Kingston, June 22, 2008 - [\[LINK\]](#)

Web-site of the Confederation of trade unions of Moldova - [\[LINK\]](#)

**Social Scientist's  
Comments:**

Social partnerships between employer and employee organizations are in the process of redefining their roles and tasks in Moldova. Employers are so far poorly organized and their associations largely inactive. Trade unions have lost much of the importance they once had in the USSR era and are now divided and barely prepared for the tasks they currently face. With the emergence of a 'vertical of power' in Moldova after the election victory of the Communist Party in February 2001, trade unions have been split and then reunited. Several small trade unions were forced to join the largest pro-governmental 'Solidaritatea Union' or suspend their activity, under heavy pressures from the government. See - [\[LINK\]](#)

## 5: Are media and free speech protected?

### 5a *In law, freedom of the media is guaranteed.*

**Score:** YES

**References:** Constitution of the Republic of Moldova (1994), art. 32 Freedom of opinion and of expression is constitutionally guaranteed Law on the audiovisual code of the Republic of Moldova, no.131 of Aug. 18, 2006 Law on the access to public information, No.982 - XIV of May 11, 2000 Freedom House 2008 / Moldova - [\[LINK\]](#)

**Social Scientist's Comments:** All the past years were considered as 'setbacks for media and press freedom' by the international and Moldovan analysts. The main targets of critical assessment were: failure to reform the main public broadcaster TELERADIO - Moldova, which remained under excessive governmental influence, and self-censorship spread amongst journalists, particularly those covering electoral campaign. Journalists investigating corruption, as well as their sources, were intimidated and harassed. While prison sentences can no longer be issued in libel cases, Parliament refuses to set a clear ceiling for libel fines.

### 5b *In law, freedom of speech is guaranteed.*

**Score:** YES

**References:** Constitution of the Republic of Moldova (1994), art.32 - freedom of speech and opinions Law on the access to information No.982 - XIV of May 11, 2000

**Peer Reviewer's Comments:** Articles 1 and 4 of the Law on Press (<http://lex.justice.md/index.php?action=view&view=doc>)=1&id=311633) guarantee freedom of press, and bar censorship. They state that limitations should only be provided by law, justified and compatible with democratic norms of in the interest of national security, public order and the interest of others.

## 6: Are citizens able to form print media entities?

### 6a *In practice, the government does not create barriers to form a print media entity.*

**Score:** 25

**References:** Freedom House Report - 2008 - [\[LINK\]](#) Corneliu Rusnac, "Seven Lost Cases in A Week for Moldova", BBC, Oct. 24, 2007, [\[LINK\]](#)" target="\_blank">[\[LINK\]](#) Association for electronic press APEL monitoring reports on the Teleradio - Moldova Broadcasting company, [\[LINK\]](#) A. Cantir, "President Voronin at War with Opposition", BBC, July 25, 2007, [\[LINK\]](#) Premier Tarlev Accuses the Experts of Disinformation, BBC, Oct. 12, 2007, <http://www.bbc.md> Interview with Petru Macovei, executive director of the Association of Independent Press, Sept. 21, 2007

**Social Scientist's  
Comments:**

The constitution guarantees freedom of opinion and expression; it condemns censorship and ensures editorial independence. The law on access to information and the law on press and broadcast code provide a set of additional rights to journalists. However, implementation remains a key issues in terms of legal guarantees. For instance, in 2007, two cases concerning freedom of expression appeared before the European Court of Human Rights in Strasbourg; they were won by Kommersant Moldovy and Flux. Editorial duties are still subject to government control and interference by owners. According to the IREX's Media Sustainability Index (2006-2007), since 2006 print media have enjoyed the diversity of 27 Romanian language newspapers, 24 Russian language newspapers, and about 40 regional newspapers, half of which are subsidized by local governments. But, advertising revenues directed to media that are loyal to the ruling party, discriminatory fees used by the state publishing house, and the Post of Moldova's monopoly over distribution are all factors that limit available revenues and reach for newspapers that are critical of the ruling party. Although the government ceased to act as the founder of Moldova Suverana and Nezavisimaya Moldova, articles favorable to the president, speaker of the parliament and prime minister appear prominently, while editorials praise official policies, together with extremely violent campaign against opposition or civil society leaders.

**Peer Reviewer's Comments:** The government creates barriers for development of print media. For instance, there have been cases in which heads of district have requested the General Prosecutor's Office and the State Chamber of Registration check the registration status of some independent local newspapers. The Association of Independent Press of Moldova has said it is extremely worried by these attempts of local authorities to reduce the inconvenient mass media to silence. Also, the local governments usually directly subsidize loyal state or local newspapers. In such way, the private and unbiased newspapers are marginalized.

**6b *In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.***

**Score:** YES

**References:** Civil Code, Law on the public associations (No.937-XIII of May 17, 1996), Law on private entrepreneurship and enterprises (No.845-XII), Law on joint stock companies (NO.1134-XIII), Law on press, No.243-XIII of Oct. 26, 1994, art.5 The right to establish regular publications or news agencies is recognized by the law to every legal or physical entity and citizens of 18 years old who have a permanent residence in Moldova. Registration of printed media is done by the Ministry of Justice (art.6 of the law). Only the general prosecutor of Moldova may file a case in court against mass media outlets to cease their functioning. The usual procedure of appeal against the Ministry of Justice, when it delays the registration of an outlet, or against the prosecutor, who may decide to suspend the activity of a printed media, is generally by appeal in a court. As the practice shows, when political pressures are very high then the last and most efficient remedy for the independent press is in Strasbourg with the European Court of Human Rights.

**Social Scientist's Comments:** In February 2007, three journalists who wrote an investigative article for the weekly Cuvintul about abuses during the privatization of public properties were acquitted by a local court after the local government of Rezina (a town with a Communist government) demanded an amount equivalent to US\$320.000 for 'moral damages'.

**6c *In practice, where necessary, citizens can obtain a print media license within a reasonable time period.***

**Score:** 50

**References:** Acces - Info - [\[LINK\]](#) Law on the registration by the state of enterprises and organizations (NO.1265-XIV of Oct. 5, 2000). By this law, there are two ways to register periodical mass media: via announcement or notification or via authorization. Registration by authorization requires the receipt of the Certificate of registration for the publication before it effectively starts its activities, while registration via notification implies the transmittal of the registration acts to the respective registration authority. When registration is not made in time (one or two months,) then the entity can attack the refusal of registration in a court of justice of Moldova.

**Social Scientist's Comments:** Registration procedure of the printed mass media and news agencies is identical with the registration of public associations. When any entity desires to register a printed media and undertake an entrepreneurial activity, it can do so at the State Chamber of Registration of the Department for Information Technologies as a legal entity, or at the Ministry of Justice. The latter is valid if the publication is generally not aimed at raising profits. If the print media start to raise incomes, then the publication shall be re-registered at the State Chamber of Registration of the Department for Information Technologies.

**6d** *In practice, where necessary, citizens can obtain a print media license at a reasonable cost.*

**Score:** 75

**References:** Law on the state registration of the enterprises and organizations (No.1265-XIV of Oct. 5, 2000) Decision of the Government for the implementation of the law on public associations, No.559 of June 17,1997 Law on press, No.243-XIII of Oct. 26, 1994 Since 2004, a unique register of the printed media and news agencies has been created, in order to avoid cross-registration of mass media outlets (in 2004, out of the total of 442 periodical printed media only 130 were registered at the Ministry of Justice and 312 at the Chamber of State Registration). Report on the activities of the Department of Political Parties and NGOs for 2007 - Ministry of Justice - [\[LINK\]](#)

**Social Scientist's Comments:** For the registration of public associations, the Ministry of Justice applies a tax fee estimated at three average salaries per economy (varying in time - 540 lei (US\$52) in 1995 and 1,240 lei (US\$120) in 2007). According to its charter of functioning, the Ministry of Justice of Moldova oversees the registration of printed media through a special department. During 2007, it registered 11 publications.

## 7: Are citizens able to form broadcast (radio and TV) media entities?

**7a** *In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.*

**Score:** 25

**References:** Freedom House Report - Moldova 2008, 2007 - [\[LINK\]](#) Seven Mass Media and Human Rights NGOs Request The Parliament of Moldova To Reject the Law Amending Paragraph 8 of Article 16 of the Civil Code, submitted to the Parliament by the President of Moldova - [\[LINK\]](#) Annual Report of the Freedom of Expression and Information in Moldova, 2007 - [\[LINK\]](#) 100 pressing issues for Moldova in 2007 - [\[LINK\]](#)

**Social Scientist's Comments:**

Significant restrictions to information pluralism existed during 2007. Three TV channels have nationwide coverage in Moldova: Moldova 1, TVR1 and ORT. In a controversial act in late September, the Broadcasting Coordination Council (BCC) informed a Romanian Television Society (RTC) broadcasting TVR1 that it would be revoking its license to rebroadcast on the ground that it delayed a nominal payment for retransmission. As a result, TVR1 lost its frequency, and instead a pro-governmental NIT Program received it instead, while all cases brought to court in Moldova were lost by Romanian representatives. In addition, licenses and contracts for retransmissions seem to be different, and are authorized and signed by two different bodies: BCC awards licenses and the Ministry of Telecommunications signs retransmission contracts. The TVR1 case rose large debates in Moldova about the political standing of the BCC. The Center for Independent Journalism Report for 2007 assessed that "during 2007, scandals within the BCC significantly reduced the credibility of this institution and jeopardized the idea that it can carry out its activities in the public interest, and not into the playground of the ruling party."

**Peer Reviewer's Comments:** The Broadcasting Code says that licenses must be issued in accordance with the principle of pluralism in broadcasting and mass media in general, excluding the possibility of creating conditions for instituting monopoly and concentrating property and taking into account existing licensed broadcasters' compliance with requirements. But on May 7-8, 2008, when the Broadcasting Coordination Council distributed licenses for 16 radio frequencies and 60 TV frequencies, none of the licenses put up for tender was offered to the stations that offer access to the opposition or broadcast opinions critical of the present government. The radio station Vocea Basarabiei won none of the eight FM frequencies for which it applied. This station applied for a frequency in Chisinau for the 26th time, but all in vain. Instead, the stations that belong to the political parties allied with the ruling party, Communist and Christian-Democrat parties, obtained more than 20 frequencies.

**7b In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.**

**Score:** YES

**References:** Law on broadcasting, No.131 of Aug. 18, 2006. Although art. 27 of the Law stipulates that the license shall be withdrawn from broadcasters only if a recurrent and grievous violation of the provisions of the Code occurred and that (art.38) in the rehabilitation period specified in the notification the Council for Coordination on Audiovisual shall assist the broadcasters in every possible way to return into legality, the actions of the BCC remained rigid, brutal and biased. Art 38 (9) of the Code stipulates that any decision of the Council for Coordination on Audiovisual regarding the application of a sanction may be contested in court by a broadcaster or service provider that was penalized. The general public cannot, however, contest the inaction of the BCC when it does not react to obvious cases where human rights are infringed. Notifications from citizens were declined during 2007 by the BCC for no reason.

**Social Scientist's Comments:** Licenses for broadcasting program services are issued by the Council for Coordination on Audiovisual on a competitive basis (art. 23 of the Law on broadcasting). Decisions of licensing shall take into consideration the applicant's financial viability, and the extent to which the applicant's proposals meets with his/her real financial potential. The actions and decisions of the BCC showed, however, that it may not be successful in applying the law.

**7c In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.**

**Score:** 25

**References:** Monitoring Freedom in 2007, report of the IJC - [\[LINK\]](#) Law on licensing some types of activity, No.451 of July 30, 2001

**Social Scientist's Comments:** During 2007, civil society authored several monitoring reports which claimed that BCC and TRM did not implement the Audiovisual Code in a way that could earn them the title of public institutions. Instead, BCC's biased decisions have been labeled by civil society and international institutions, with good reason, as attempts to limit the pluralism of opinions and the critical voices of Moldovan media.

**7d In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.**

**Score:** 50

**References:** Report on the Moldova Broadcasting Coordination Council, April - June 2008 - [\[LINK\]](#) Law on licensing of some activities, No.451 of July 30, 2001 Law on telecommunications No.520 of July 7, 1995 Code on administrative contraventions, of March 29, 1985

**Social Scientist's  
Comments:**

The state tax for a broadcast media license is of 2,500 lei (US\$241) (art.18 of the Law on licensing), but in addition to that broadcasting media owners have to pay fees for transmissions, issued by the Ministry of Telecommunications and Transportation, which are not easily accessible.

**Peer Reviewer's Comments:**

In 2008 only loyal media broadcasting companies obtained frequencies. For example, Media Pro Co. and Vocea Basarabiei were not awarded a single license, while NIT, a TV station loyal to the ruling party, got several. It is a common practice to pay a certain amount as unofficial fee for a license (from 2,000 to 5,000 euros).

## 8: Can citizens freely use the Internet?

**8a** *In practice, the government does not prevent citizens from accessing content published on-line.*

**Score:** 50

**References:** [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) Aneta Grosu - Media Freedom Violations in Moldova, November 2008 - 222.aej-uk.org/media-08-Mol3.docs

**Social Scientist's Comments:**

In 2008, police raided a number of bloggers, who posted their critical comments on the ruling party's activities, and have even sequestered blogger's personal computers, without an explicit mandate. In June 2008, tens of youths gathered to protests against the incident, and adopted a resolution which condemned the actions of the prosecution. Independent lawyers and opposition parties supported the protests and backed free access to freedom of expression, as enshrined in the constitution. In the spring of 2008, Prosecution and SIS (intelligence services) of Moldova ordered shut the IP addresses of several forum writers who voiced opinions against the Communist government, while on June 4 the Prosecution seized the computers of 12 adolescents, accusing them of "calling to violently overthrow of the constitutional regime and liquidation of statehood and territorial integrity of Moldova." See also: Condamnat pentru incitare impotriva mentilor, Jurnal de Chisinau, 732, July 11, 2008. Accusations filled in against the bloggers in 2008 have been not yet settled, and the arrests of the personal computers for the alleged 'aggressive speach' against the ruling party served as a pretext to toughen the general measures against free press. In September - October, 2008, high-rank officials of Moldova warned Pro-TV that it will loose its broadcasting license because it serves to some politicians, and that its maintained website contains infamous statements agaisnt the ruling party.

**Peer Reviewer's Comments:** No government interference with Internet access is reported. The government did intervene and tried to prosecute some bloggers but has not taken any measures to limit access to Internet.

**8b** *In practice, the government does not censor citizens creating content on-line.*

**Score:** 25

**References:** In 2008, governmental bodies staged raids on bloggers criticizing the president and the government, and forcefully shut down the IP addresses of the citizens who have shown active content on sensitive issues related to political change in Moldova. [\[LINK\]](#) [\[LINK\]](#) ]

**Social Scientist's  
Comments:**

MPs of the European Parliament called for action against the harassment that Moldovan authorities started against bloggers in June-July. The cases are not yet resolved.

**Peer Reviewer's Comments:**

The government intervened once with the freedom of speech online. Information has not been removed, and there are a number of online publications very critical to the government.

## 9: Are the media able to report on corruption?

**9a** *In law, it is legal to report accurate news even if it damages the reputation of a public figure.*

**Score:** YES

**References:** Law on press, No.243 - XIII of Oct. 26, 1994 Report on the freedom of press in 2007, Center for Independent Journalism - [\[LINK\]](#)

**Social Scientist's Comments:**

Freedom of media is guaranteed by the Constitution and the specific legislation on media. Nevertheless, journalists are both punishable for views which could be interpreted as defamation, and then, controlled prosecution sue them into courts, or punish them accordingly, by suspending accreditation, or harrassing them when they do their jobs. Cases of violence against journalists continue at a disturbing high level in Moldova, while the ruling communist party fail to accept to role of the press in curing the power from abuses. Pressures on journalists have increased in 2007 and 2008, because of the election time, as well as because of the weak enforcement of the legislation at the national level. When Moldova - EU Action Plan expired in February 2008, the main deficiencies were related to the "decline of media freedom, weak judiciary independence, weak implementation capacities of the laws." When journalists are too critical, they are not accredited by the state bodies, while cases indicate that physical harassment is also an instrument of 'pacifying' mass media. The report of the European Commission states that "new legislation on state secrets shall be adopted to replace the current legislation, which is unduly restrictive and outdated, while the editorial independence of Teleradio-Moldova should be ensured in practice."

**Peer Reviewer's Comments:** Articles 1 and 4 of the Law on Press ([http://lex.justice.md/index.php?action=view&view=doc\)=1&id=311633](http://lex.justice.md/index.php?action=view&view=doc)=1&id=311633)) establishes freedom of speech. Article 16 of Civil Code ([http://lex.justice.md/index.php?action=view&view=doc\)=1&id=325085](http://lex.justice.md/index.php?action=view&view=doc)=1&id=325085)) provides for the civil defamation that holds the press and journalists accountable for disseminating untrue information.

**9b** *In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.*

**Score:** 25

**References:** Commission staff working document, accompanying the communication from the Commission to the Council and the European Parliament 'Implementation of the ENP in 2007', Progress Report Moldova, [\[LINK\]](#) Freedom House, Nations in Transit 2008, - [\[LINK\]](#)

**Social Scientist's  
Comments:**

Investigative journalists remain particularly vulnerable to political actors, businessmen and other powerful interest groups that may readily accuse them of defamation and libel. Failure to reform the largest national broadcaster Teleradio Moldova into a genuinely independent public service outlet appears to be the most pressing issue on the media landscape. The OSCE Mission to Moldova expressed its concerns on a number of occasions about the place of reforms at Teleradio - Moldova, which has made almost no progress towards becoming a truly independent public service broadcaster since its formal transformation in August 2004. OSCE Mission to Moldova, Statement, dated Feb. 19, 2007

**Peer Reviewer's Comments:** Journalists usually limit themselves to reporting on corruption cases involving bribery of doctors or medical assistants, civil servants, judges or prosecutors. Journalists are not yet capable of conducting investigations, although some newspapers specialize in investigative articles.

**9c *In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.***

**Score:** 75

**References:** [\[LINK\]](#) Comunicatul Aliantei Anti-Coruptie, July 1, 2008 - Curbing Corruption in Moldova: Vision of The Civil Society, [\[LINK\]](#)

**Social Scientist's  
Comments:**

There is no prior government restraint on publishing corruption-related stories, but often government officials vehemently deny the stories/articles published by the mass media, and sue them for the 'defamation and libel.'

**Peer Reviewer's Comments:** No internal investigations are initiated within a public/state institution linked to a corruption case reported on by the media.

**10: Are the media credible sources of information?****10a In law, print media companies are required to publicly disclose their ownership.****Score:** NO**References:** Law on press, No243 - XIII of Oct. 26,1994

**Social Scientist's Comments:** By law, there are no specific provisions forcing media companies to publish/disclose their ownership. Some stipulations of the law state that "foreign legal or physical entities cannot own more than 49 percent of the shares in a shareholding media holding in Moldova" (art.5), while art.12 explicitly prohibits the financing of media outlets from foreign sources.

**Peer Reviewer's Comments:** In January 2008, the Moldovan President Vladimir Voronin ordered the employees of the Information and Security Service to check up on the funding sources of parties and of the independent press, in the context of the unofficial start of the race for the 2009 parliamentary elections. As a result the Ministry of Public Administration requested from newspapers information about the owners and sources of their income. This action was criticized by civic society.

**10b In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.****Score:** NO**References:** Broadcasting law, No.131 of Aug. 18, 2006

**Social Scientist's Comments:** The law does not explicitly require that the broadcaster disclose its ownership.

**10c In practice, journalists and editors adhere to strict, professional practices in their reporting.****Score:** 25

**References:** Report on Media Freedom in 2007, CIJ - [\[LINK\]](#) target="\_blank">[LINK] [\[LINK\]](#) http://www.ijc.md - declarations, appeals, reports, analytical pieces [\[LINK\]](#) - regional and local press - API [\[LINK\]](#) - monitoring reports of Teleradio - Moldova

**Social Scientist's Comments:** No outlet was a model of balanced coverage due to pressure and abuses during the pre-electoral campaign and excessive and prohibitive regulations, as remarked at the Conference 'Press in 2007 Local Elections: Lessons Learnt, Lessons To Learn', organized by API. Reports found that civil servants in Moldova are basically legally illiterate and that the public is apathetic, both of which are reminiscent of Soviet times. Access to information of public interest in Moldova is therefore still troublesome. As a rule, information of public concern is to be regularly provided at request, and the use of prohibitive law on state secrets and on commercial secrets is becoming a tool to refuse access to public information.

**Peer Reviewer's Comments:** During the 2007 local elections, most newscasts at public broadcast Moldova 1 and Radio Moldova were conceived in such a way as to influence the audience in favor of the government, with coverage presented only from its angle. Only toward the end of the electoral campaign, before June 3, after being warned by the Coordinating Council of the Audiovisual about the lack of pluralism and equidistance, did Moldova 1 and Radio Moldova begin broadcasting certain information disseminated by opposition parties.

**Peer Reviewer's Comments:** To address the problem, API created a working group responsible for drafting Editorial Guidelines which will be compulsory to all its newspaper members. The guidelines are to be adopted in early 2009.

**10d** *In practice, during the most recent election, political parties or independent candidates received fair media coverage.*

**Score:** 25

**References:** OSCE/ODIHR Election Observation Mission Report, 3, June 17, 2007 local elections Report No.5 (June 4-11) 2007, Mass Media Monitoring in The Election Campaign for Local General Elections in Moldova - CIJ, API under Coalition 2007

**Social Scientist's Comments:** Negative campaigning surfaced in mass media prior to the first round of local elections in 2007, being assessed critically by the OSCE rapporteurs. The majority of monitored broadcasters, through their prime-time news, provided extensive coverage of state authorities, thus favoring pro-government candidates. In its prime-time news and current affairs programs, publicly funded Moldova 1 displayed a clear bias and provided substantial coverage of the activities of state authorities outside the campaign context. 74 percent of its political and election-related prime-time news coverages was devoted to the president, government and speaker of Parliament, and another 6 percent to the Communist party.

**Peer Reviewer's Comments:** During the 2008 local elections, Moldova 1 and Radio Moldova intensively covered the electoral actions and statements of the country's president, prime minister and speaker of Parliament, favoring the ruling party and ignoring the opposition parties. The former state-owned newspapers Moldova Suverana and Nezavisimaia Moldova, as well as the local public ones, covered the electoral actions of the central and local public administration, directly and indirectly favoring the ruling party. These newspapers ignored the opposition parties in the first weeks of the electoral campaign, and later presented the candidates of opposition political entities only in negative light. (<http://www.api.md>)

**10e** *In practice, political parties and candidates have equitable access to state-owned media outlets.*

**Score:** 25

- References:** Election Code of Moldova, No.1381 - XIII of 21.11.1997  
OSCE/ODIHR Election Observation Mission Report on Moldova, Sept. 21, 2007 - [\[LINK\]](#) [\[LINK\]](#)
- Social Scientist's Comments:** In 2007 the BCC issued a warning to Moldova 1, Radio Moldova, Antena C and NIT for their failures to observe the principles of fairness, balance and impartiality in their news programs.
- Peer Reviewer's Comments:** In 2008 only allies of the Communist Party had access to the public broadcasting company. Opposition leaders were aired with short inserts, cut in such a way as to sound neutral or even positive with respect to the government or ruling party. For example, the beginning of a sentence ("We welcome the initiative regarding...") was used in a news program, but not the second part of the sentence ("however, we are concerned with...").

## 11: Are journalists safe when investigating corruption?

**11a** *In practice, in the past year, no journalists investigating corruption have been imprisoned.*

**Score:** YES

**References:** Media Investigators Search for Shadow Incomes of The State Officials, [\[LINK\]](#) [\[LINK\]](#)

**Social Scientist's  
Comments:**

For the period in question, no journalists were imprisoned in 2008. However: On April 17, 2007 a Club of the Media Investigative Journalists was established. In January 2007, the headquarters of TIMPUL was attacked by a group belonging to the Orthodox Mitropoly - Jan. 23, 2007 In 2004, Alina Anghel from Timpul was physically kicked down by aggressors while she was going to work, after she authored a series of investigative media reports. In February 2008, Prosecutor General charged the director of TIMPUL Newspaper with the charge of inciting conflict or national, racial or religious divisions, and although the media experts declared the allegations groundless, prosecution attempted to arrest him. In April 2008, Prosecutor General launched a new series of arbitrary investigations to arrest and identify the bloggers which share their critical comments on the ruling party on the Unimedia website, involving the secret services of Moldova (SIS) as well, which demanded information on IP addressess of the participant's at the forum, and even arrested some of them, requisiting their personal computers, for a while. During the year of 2007 and 2008, Prosecutor General ordered officials of the Interior Ministry to conduct a criminal investigations into several reporters and listeners of the Radio Station Vocea Basarabiei, on suspicion of attempting to change the constitutional order of the country. Exactly the same accusation was earlier presented to Antena C, in 2005, after which the Radio Station was privatised and fully controlled by the ruling party and its political allies.

**Peer Reviewer's Comments:** The media NGOs denounce the three-day detention of journalist Oleg Brega in May 2008, who was arrested for the simple intention to peacefully protest in front of the National Palace, where a festivity was held to mark the 50th anniversary of the foundation of the public television. The police prevented Brega from approaching the National Palace, while the Buiucani District Court ruled that Brega's placard with the inscription "50 Years of Lie" was injury and sentenced him to three days under arrest, thus violating a number of legal provisions and international norms on the right to opinion and free expression.

The cameraman Ghenadie Brega, who accompanied Brega and filmed the incident with the police, was fined. On May 10, Ghenadie Brega, who was protesting in front of government offices against the detention of his brother, was mistreated by plainclothes police officers, arrested and taken to the Buiucani district police department,

where he was kept for 48 hours in inhuman and degrading conditions, being accused of insubordination, resistance and insult to the police.

**Peer Reviewer's Comments:** No journalists were imprisoned in 2008 in Moldova.

**11b *In practice, in the past year, no journalists investigating corruption have been physically harmed.***

**Score:** NO

**References:** Memorandum on the freedom of press in Moldova, May 3, 2008

**Social Scientist's Comments:** There were several cases in 2007 when the state authorities harassed media reporters. On July 19, 2007, reporters were prohibited from a reunion of the president of Moldova with the mayor of Balti. On Aug. 17, 2007, in Glodeni, a Communist MP physically attacked a TV Operator. On Oct. 19, 2007, the police brutalized the PRO TV reporters and cameramen recording a protest action in front of the Ministry of Foreign Affairs. There are dozens of cases when body guards of the top-officials of Moldova harassed or even beat the cameramen of PRO-TV, Unimedia, or foreign press, TIMPUL. On Feb. 21, 2008, the prosecution filed a case against the chief-editor of the TIMPUL Newspaper for 'ethnic hatred', although media associations stated the accusations do not have any logical or factual evidence. Regularly, the president and prime minister avoid to allow opposition press to record their press conferences, particularly when rather sensitive issues are announced, such as Transnistria or domestic politics.

**11c *In practice, in the past year, no journalists investigating corruption have been killed.***

**Score:** YES

**References:** Media report for 2007, [\[LINK\]](#)

**Social Scientist's Comments:** No journalists were killed during the period in question.

**Peer Reviewer's Comments:** ... and during 2008.

## 12: Do citizens have a legal right of access to information?

**12a** *In law, citizens have a right of access to government information and basic government records.*

**Score:** YES

**References:** Law on access to information, No. 982 - XIV of May 11, 2000

**12b** *In law, citizens have a right of appeal if access to a basic government record is denied.*

**Score:** YES

**References:** Constitution of Moldova, adopted on July 29, 1994 Law on Access to information, No. 982 of May 11, 2000 Law on adoption of the Parliament rules of procedures, No.797-XIV of April 2, 1996 Law on the statute of deputies, No.39 - XIII of April 7, 1994 Law on the government, no.64 - XII of May 31, 1990 Law on legislative acts, No.780 - XV of Dec. 27, 2001 Access-Info Report on the evaluation of access to official information in Moldova - May 2008 - <http://www.acces-info.org.md>

**Social Scientist's Comments:**

Despite the sophisticated legal framework governing the way to access information of public interest, this right is still not fully enforced. During the past years, specialized NGOs have tried to promote a draft law on transparency of the decision making process, but the draft remained with no response from the Parliament after two years of continuous consultations with the legislative body. The Access-Info Center reports that the national legislation in the field of access to information was hampered seriously with the adoption of the new law on public servants code of conduct (No. 243 - XVI of April 11, 2009), in which transparency was not even among the principles guiding civil servant's activity. In turn, a general clause stated that 'communication with media in the name of the public authorities is done exclusively by the civil servants empowered with this right,' saying no word about the people in charge of the communication, and how their information will get to the public.

**12c** *In law, there is an established institutional mechanism through which citizens can request government records.*

**Score:** YES

**References:** Constitution of Moldova, art.v34 - access to information of public interest Law on access to information, No.982 - XIV, art.11 of May 11, 2000

### 13: Is the right of access to information effective?

**13a** *In practice, citizens receive responses to access to information requests within a reasonable time period.*

**Score:** 50

**References:** Law on access to information, art.11 states that "civil servants have to provide accurate and timely information to citizens on issues of public and personal interest." Information will be presented to the applicant as soon as it becomes available, but no later than 15 working days from the day on which the request to access information has been registered (art.16). Access-Info: [\[LINK\]](#)

**Social Scientist's Comments:** The government was supposed to amend the law on petitions after the adoption of the law on access to information, but it never did that. Information requests are considered thus petitions, and they are delayed for months. Independent experts show that the acting legislation contains provisions related to the right to access to information in over 400 normative acts, from practically all domains: economy, culture, education, labor, health, environment, foreign relations, etc. Most of these provisions comply with the law on access to information, but there are still some which need to be abrogated, amended or reactivated.

**Peer Reviewer's Comments:** Access to information of public interest is preferential: Some are given the information required, others are not. For example, the Center for Corruption Analysis Prevention, an NGO that monitors the work of the Economic Crimes and Corruption Combating Center, has faced resistance by Interior Ministry representatives. Also, a report by the Acces-Info Center showed that of state representatives who received requests from public citizens or NGOs, only 19 percent responded. (Anti-Corruption Alliance's first report monitoring the anti-corruption reforms, May 13, 2008)

**13b** *In practice, citizens can use the access to information mechanism at a reasonable cost.*

**Score:** 75

**References:** Access-Info Monitoring Reports on the access to information. On Paper And in Reality - [\[LINK\]](#) No fees will be levied for information requested by the information solicitor, if this information influences directly the rights and freedoms of the information solicitor, is presented verbally, is solicited for examination on the institution's premises, contributes to the transparency of the public institution and is in the interest of the society (art.20).

**Social Scientist's  
Comments:**

Art. 20 of the Law on access to information stipulates that "fees can be levied for providing official information and documents, except for cases specified by law, in amounts and according to the procedures set by representative bodies; such fees will be disbursed to the state budget," but the fees will not exceed the costs incurred during the search for and processing of the information or parts thereof, copying, sending it to the applicant and/or translating it from the state language, based on the request of the solicitor.

**13c *In practice, citizens can resolve appeals to access to information requests within a reasonable time period.***

**Score: 25**

**References:**

Access-Info Monitoring Report, 2008. A recent investigation conducted by this center in 2008 showed that requests of the public are still treated in a negligent manner, and irresponsible attitude of the public authorities and institutions hinder their good functioning. Out of 4,839 information requests submitted to public authorities in 2008, only 934 (19.3 percent) received an answers, most of which were incomplete. Most state authorities treat public information as a confidential asset, although requests to information have been drafted according to the data of the 'public procurement bulletin,' and this would allow for a rightful demand to get information in time.

**Social Scientist's  
Comments:**

Most institutions have not yet established appropriate documentation facilities to allow access to information for the public, no public rooms for meetings, no web sites. A weak infrastructure for the documentation purposes is in place at the largest part of the state institutions in Moldova.

**13d *In practice, citizens can resolve appeals to information requests at a reasonable cost.***

**Score: 50**

**References:**

Law on access to information, No.982-XIV of May 11, 2000. Most of the information providers do not charge their beneficiaries for the simple reason that neither district councils nor other representative bodies 'take the risk' to adopt decisions regarding payment for providing information. Usually, refusals to requests for information do not indicate the reason of the refusal, which thus contradicts the existing law on access to information.

**Social Scientist's  
Comments:**

Costs of the information requests are not an issue, but the PR departments of most state institutions are badly organized. Most official web pages of the ministries indicate the hours and procedures for audience, but there are no sample forms, instructions on how to fill them in, or instructions on the procedure of submitting petitions or requests.

**13e *In practice, the government gives reasons for denying an information request.***

**Score: 25**

**References:**

Law on access to information, No.982 - XIV of May 11, 2000 Code of conduct of the public servant, 2008 Law on Government, No.162-XVI of July 9, 2008

**Social Scientist's  
Comments:**

Information is requested under the form of petitions, which does not lead to redress in case the answers will be unsatisfactory to the applicant. International practices report a different tradition on defining request for information as a specific category of public services, and public institutions are obliged to write annual reports in their area.

**Peer Reviewer's Comments:** It has become a common practice to give formal answers to requests of information, but to not provide the "real" information. Thus, legally, the institution has replied but has not truly satisfied the request.

## 14: Is there a legal framework guaranteeing the right to vote?

### 14a *In law, universal and equal adult suffrage is guaranteed to all citizens.*

**Score:** YES

**References:** Constitution of Moldova, art. 38 - right to vote and be elected Election Code, No.1381-XIII, arts. 3-7 of Nov. 21, 1997

### 14b *In law, there is a legal framework requiring that elections be held at regular intervals.*

**Score:** YES

**References:** Constitution of Moldova (1994) stipulates that the Parliament is elected for a mandate of four years, which can be prolonged through an organic law, in case of war or emergency (art.6 3). Local governments are all elective and are changed regularly through local elections, held every four years. A universal Election Code stipulates the exact procedures for election of the local and national public authorities (No.1381 - XIII of Nov. 21, 1997).

**15: Can all citizens exercise their right to vote?****15a In practice, all adult citizens can vote.****Score:** 75

**References:** Art. 38 of the Constitution of Moldova enshrines the 'right to vote and be elected' to citizens of Moldova, aged 18 years by the day of elections, excepting those which fall under the category of limited in their rights. The right to be elected is a constitutional right guaranteed to all citizens of Moldova, according to the Election Code (No.1381-Xiii of Nov. 21, 1997). Partide, alegeri, compromisuri, - Adept, [\[LINK\]](#)

**Social Scientist's Comments:** In practice, the election turnout is relatively high (62-70 percent), depending on the type of elections. Two important drawbacks of the existing election system have to be considered: first, citizens of Moldova residing in Transnistria are not allowed to vote because of the separatist regime over the left bank of Dnister; second, the low level of confidence in the political parties makes voters look for outspoken personalities, visible at the national level.

**15b In practice, ballots are secret or equivalently protected.****Score:** 75

**References:** Art.48-49 of the Election Code stipulate the procedure ensuring the protection of ballots by the election bodies, with support from the police. Only chairs of the election councils of the respective districts, assisted by the election bureaus have access to ballots before the voting turnout. Election Code - No.1381- XIII of Nov. 21, 1997. [\[LINK\]](#); [\[LINK\]](#); [\[LINK\]](#)

**Social Scientist's Comments:** With extraordinary exceptions, most elections held in Moldova followed the general international standards of elections, and international observers found no blatant irregularities that would disfranchise elections. Professional election bodies are in charge in Moldova with the organization of elections, i.e. they ensure that the voting is universal, equal, secret and freely expressed. In the 2007 elections, only in Corjova, rebel militia in Transnistria prevented the opening and voting in the polling station, despite the fact that the village is administrated by Moldovan authorities. Elections are regularly assessed by the OSCE, Council of Europe and domestic NGO coalitions. Most irregularities concerned the intimidation and pressures on opposition candidates by the ruling party, and biased media coverage of during the election campaign.

**Peer Reviewer's Comments:** In 2008 elections for local parliament in the autonomous region of Gagauzia, concerns were expressed as to the secrecy of vote, given the fact that one could see a persons' vote on an unfolded ballot through the transparent urns.

**15c In practice, elections are held according to a regular schedule.**

**Score:** 100

**References:** [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#)

**Social Scientist's  
Comments:**

Elections are held regularly in Moldova, with the exception of anticipated elections. This was the case of the 2001 anticipated parliamentary elections, when the CPM won elections democratically. Similarly, the Chisinau mayoral elections in 2006 were held only in June 2007. In the Gagauz Autonomy in Comrat during 2002, the incumbent was dismissed after corruption allegations became resounding for the electorate.

## 16: Are citizens able to participate equally in the political process?

### 16a *In law, all citizens have a right to form political parties.*

**Score:** YES

**References:** Law on political parties, No.718-XII of Sept. 17, 1991 Constitution, art.41, freedom of political parties and social-political movements  
Election Code, No.1381-XIII of Nov. 21, 1997

**Peer Reviewer's Comments:** The law on political parties in Article 3 (<http://lex.justice.md/index.php?action=view&view=doc>)=1&id=327053) forbids setting up political parties on the grounds of ethnic or linguistic origin. In order to be registered, the law also requires that a political party should have territorial branches in at least half of the regions. This bars the formation of regional parties. OSCE/ODIHR recommends accommodation of the regional interests.

### 16b *In law, all citizens have a right to run for political office.*

**Score:** YES

**References:** Constitution, art. 38 - right to vote and be elected to all citizens, aged 18 years, with exceptional restrictions/limitations related to the criminal offenses, or cumulated offices. Law on Government, No.162 - XVI of July 9, 2008 Law on civil service, No.443 - XIII of May 4,1995

### 16c *In practice, all citizens are able to form political parties.*

**Score:** 50

**References:** Although the provisions of the law on political parties stipulate quite a fair environment for involving citizens, and allow them to create and run political parties, in practice the Ministry of Justice may certainly hinder or delay the registration of new parties. Such was the case of the European Action Movement (MAE), which has been requesting registration since the fall of 2006. Nevertheless, it got no registration until the fall of 2008, and most probably, it will be unable to participate in elections. See [LINK](#) Political And Security State Watch, No.5, October 2007, [LINK](#) - [LINK](#) [LINK](#)

**Peer Reviewer's Comments:** On Nov. 3, 2008, the People's Republican Party's leader, Nicolae Andronic, stated that he would sue the Justice Minister, for his refusal to register changes in the party's statute, approved to conform with the new law regarding political parties. The Justice Ministry has argued it refused the changes because the party's statute does not contain the body empowered to represent the organization in relation with the public authorities and other persons, and the party's abbreviated name is misleading regarding its juridical form of organization. Andronic thinks that this refusal is a way to hinder the party's participation in the 2009 parliamentary elections. ([www.azi.md](http://www.azi.md))

**Peer Reviewer's Comments:** Also, the Ministry of Justice refused to register the Republican People's Party and changes to the status of the Centrist Union of Moldova, which elected former Prime Minister Vasile Tarlev as its president. CUM announced it will run another congress to follow all requirements of MJ and then resubmit its documents.

**16d *In practice, all citizens can run for political office.***

**Score:** 25

**References:** Although the constitution stipulates clearly that discriminations are prohibited (art.38) for the citizens to run for political office, in 2007 the Parliament voted a new law on Civil Service, which bans the holders of double citizenship to run for political office. [\[LINK\]](#) [\[LINK\]](#) Cetatenii moldoveni cu dubla cetatenie nu mai au dreptul de a detine functii publice', April 11, 2008, [\[LINK\]](#) V.Tarlev: 'Functionarii trebuie sa aiba doar cetatenia RM'; [\[LINK\]](#) [\[LINK\]](#) Chisinau: Legea care interzice functionarilor sa aiba dubla cetatenie, adoptata. Dec. 8, 2007; [\[LINK\]](#)

**Peer Reviewer's Comments:** ECHR ruled the restrictions to persons with dual citizenship are undemocratic and recommended Moldovan government to lift the restrictions.

**Peer Reviewer's Comments:** In Moldova's electoral system, all political parties compete based on their lists. Party leadership has a monopoly on the people who are on the party list. Independent candidates have no chance in practice to accede in the parliament.

**16e *In practice, an opposition party is represented in the legislature.***

**Score:** 100

**References:** Art. 2 of the constitution prohibits the monopolization of the state power by a political party, or by a social organization, or by any part of the nation in its own name, which is equal to power usurpation. The Parliament of Moldova has been always diverse and with crystallized political polls: left, center and right. Since 2005, the Parliament has three main players: PCRM - 45.9 percent and 56 seats, Popular Democratic Christian Party - 9.07 percent and Democratic Moldova Election Block - 28,53 percent. However, after April 2005 the DME split, and many other parties and legislative groups have fragmented the Parliament. [\[LINK\]](#) Political and Security State Watch, [\[LINK\]](#)

**17: Is there an election monitoring agency or set of election monitoring agencies/entities?**

**17** *In law, is there an election monitoring agency or set of election monitoring agencies/entities?*

**Score:** YES

**References:** Election Code, No.1381 - XIII of Nov. 21, 1997

**Social Scientist's Comments:** A Central Election Commission is established by the Code as a state body/public authority governing the organization of elections. It acts through a nation wide network of local/district-based election bodies, while Moldova is a single electoral precinct.

**18: Is the election monitoring agency effective?****18a *In law, the agency or set of agencies/entities is protected from political interference.*****Score:** NO

**References:** Art. 16 of the Election Code stipulates that the Central Election Commission is established through a group of high-ranking civil servants (nine in total) with deliberative votes: one is delegated by the president of Moldova, one by the government and seven by the Parliament, i.e. five by the opposition parties, according to the number of mandates of the latest elections. Members of the CEC cannot be however members of political parties. The nominal constitution of the CEC is confirmed by a special vote of the Parliament, with the majority of votes. Members of the CEC are immovable. They follow the application of the Election Code, constitution, and other laws in force in Moldova.

**Social Scientist's Comments:** Nevertheless, one could see that the political influences cannot be prevented, since members were delegated by parties and state authorities. Although they might claim full innocence, their behavior will be drawn out from their political preferences.

**18b *In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.*****Score:** 50**References:** Election Code, Constitution.

**Social Scientist's Comments:** In practice, the agency appointments will be made to support the general principles of the conduct of elections, in what concerns the district/local chairs of the election bodies. At the national level, Members of the CEC will often quarrel and dispute the decisions they are making, although a certain balancing mechanism would follow in any case, as decisions that would hinder citizens' interests can be appealed in courts, which may suspend certain decisions that contradict to the spirit and letter of the main laws they are implementing.

Disputes are usually reflected in how the main public broadcasting media cover elections. CEC is often accused of inaction, or exaggerated actions. CEC draws on the schedule of ensuring equal access to electoral actors, on the basis of the Law on the public broadcasting company, No.1320 of July 26, 2002 and Law No.982 of May 11, 2000 regarding the access to information.

**18c *In practice, the agency or set of agencies/entities has a professional, full-time staff.*****Score:** 100

**References:** [\[LINK\]](#) [\[LINK\]](#)(1) Art. 23 of the Election Code stipulates that members of the Central Election Commission (9) are assisted in their work and mandate by a permanent staff. The CEC sets up the limits and size of the CEC apparatus.

**18d *In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.***

**Score:** 100

**References:** Central Election Commission of the Republic of Moldova, [\[LINK\]](#)

**Social Scientist's Comments:**

It publishes regular reports on the elections it upholds, and maintains a rather good web site. The CEC operates on the basis of a standing regulation, approved by a decision of the CEC No.137 of Feb. 14, 2006, amended by No.1627 of April 8, 2008. In addition to the main documents regulating the functioning of the CEC, it supplies regularly the local election bodies with training, instructions, guidelines in setting up the necessary elements for the election organization and ballots. It also has documents on ethnic conduct of the election actors and registers local and international observers who wish to oversee the standards of the elections.

**18e In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.**

**Score:** 25

**References:** [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) During 2007 local elections, Central Election Commission has received 30 of notifications on illegalities concerning the behavior / misbehavior of electoral actors. The CEC did sanctioned 5 physical persons/ individuals for posting election materials in other places that are stipulated by specific regulations of the electoral bodies. [www.alegeri.md/2007/electoralcourier](http://www.alegeri.md/2007/electoralcourier) Nevertheless, because of the limited time allocated for the election campaign, CEC does not have enough resources to consider all cases reported to it, and often lack resources to respond to the illegaliteis know to the media. Financial reports from the political parties participating in elections are requested, but not overseen on the basis of their conformity with the facts on the ground.

**Social Scientist's Comments:**

Although art. 69 of the Election Code stipulates the penalties to offenders violating election rules/proceedings in Moldova (i.e. those who would hinder the free exercise of the election rights of the citizens, persons who spread out intentionally false data about the election competitors, undertake any other actions which encroach upon other's honor and dignity, etc.), the Central Election Commission has not proved its competence to penalize any case so far, after being set up as the sole administrative authority for the coordination and implementation of all kind of elections in Moldova.

In 2007, Transnistrian militia blocked the elections in Corjova village, of the left bank in Moldova, and stole the ballots, without CEC being able to redress the situation. Several politicians were harassed by the prosecution in 2003-2005, and in 2007 at the local level. No equal chances for the opposition parties to participate in the programs of the Teleradio-Moldova could have been protected by the CEC.

**19: Are elections systems transparent and effective?****19a** *In practice, there is a clear and transparent system of voter registration.***Score:** 50**References:** [\[LINK\]](#) [\[LINK\]](#)**Social Scientist's  
Comments:**

Electoral actors have contested the work of the CEC in the 2007 elections, on the basis that election lists were drafted with several mistakes. They claimed the law was broken, because it provides 20 days before the day of elections for voter lists to be publicly presented for oversight (arts. 39-40). In many cases, the non-registered voters exceed the admitted number of errors (over 30 percent in one single precinct). Usually, the lists fall short under the responsibility of the local authorities, which have not updated the lists, and many voters find it difficult to vote when they are not appropriately registered by election bodies. Similar conclusions can be found in the preliminary and final reports of the OSCE/ODIHR/Council of Europe Monitoring reports (June 3, 2007), who observed the organization of the local elections.

**19b** *In law, election results can be contested through the judicial system.***Score:** YES**References:** Election Code, No.1381-XIII - Nov. 21, 1997, Chapter 12, arts. 65-68**19c** *In practice, election results can be effectively appealed through the judicial system.***Score:** 75

**References:** Sesizare privind incalcarile legislatiei electorale sesizate in municipiul Chisinau de catre observatorii si reprezentantii PPCD in perioada alegerilor locale generale din RM, anul 2007, [\[LINK\]](#) - AMN sesizeaza incalcati si abuzuri in lant, ce pornesc de la Comisia Electorala Centrala, [\[LINK\]](#) Sesizarea Partidului Democratiei Sociale fata de cazurile de falsificare a rezultatelor alegerilor chiar dupa votarea din 3 iunie 2007, [\[LINK\]](#)

**Social Scientist's  
Comments:**

In a small village, Buteni, local voters protested against the conduct of elections, and repeated elections for more than five times in 2007. They accused the judiciary of imposing the central authorities' decision, and then repeated the elections until the mayor-elect actually collected most votes.

**Peer Reviewer's Comments:** As a rule, complaints are not examined in a timely manner so that their results come up during the race or until the final results are made public.

**19d** *In practice, the military and security forces remain neutral during elections.***Score:** 50

**References:** [\[ LINK \]](#) www.ladom.org.md/img/docs/1421\_raport\_ots.doc, Presence of the police is seen as a traditional illegal practice in Moldova by the national observers. www.contact.md/upload CEC a solicitat colaborarea cu SIS in ziua alegerilor locale, [\[ LINK \]](#) -

**Social Scientist's Comments:** Although the military has never been perceived as having the capability to interfere into the politics of the country, in Moldova special services are suspected to act as a political police, harassing political opponents of the ruling Communist party, intercepting phone conversations, etc.

**Peer Reviewer's Comments:** The presence of policemen at polling stations or nearby is common. Since police are perceived as a pro-governmental force or supporting the ruling party, their presence at the polling station is not perceived as neutral.

**19e *In law, domestic and international election observers are allowed to monitor elections.***

**Score:** YES

**References:** Art. 65 of the Election Code stipulates the that Central Election Commission may register oversight of domestic and international observers with clear and specific responsibilities and mandate to be followed during elections.

**19f *In practice, election observers are able to effectively monitor elections.***

**Score:** 100

**References:** <http://www.adept.md> [\[ LINK \]](#) [\[ LINK \]](#) [\[ LINK \]](#)

**Social Scientist's Comments:** In Moldova, there is a small number of specialized NGOs that work as watchdogs for election integrity: ADEPT Association, LADOM, etc. Since 2004, each election has been monitored by a coalition of NGOs advocating for free, democratic and equal elections.

**Peer Reviewer's Comments:** The local civic observation entity, the Civil Coalition for Free and Fair Elections, started its activity in 2005. Also, a wide range of international observers are registered during each campaign.

**Peer Reviewer's Comments:** Assemblies that are carried out during an election period are observed by the Resource Center for Human Rights (CReDO). [www.credo.md/assembly](http://www.credo.md/assembly).

**20: Are there regulations governing the financing of political parties?****20a** *In law, there are regulations governing private contributions to political parties.***Score:** YES**References:** Law on political parties, No.294-XVI, arts. 26, 30; Dec. 21, 2007

**Social Scientist's Comments:** Art.26 of the new law stipulates that private donations cannot exceed 0.1 percent of the resources provided as a state support to political parties. Donations made to one or several political party(ies) by a physical person cannot exceed 500 average salaries per year. Foreign financing of political parties is strictly prohibited. Art. 30 stipulates that political parties shall present periodical reports to the Ministry of Justice, while the Auditing Court will supervise. The financing of political parties is rather restrictive in Moldova, as it appeared in 2007. It bans contributions from joint ventures, where the state or foreign funders control more than 20 percent. If in the past, there were no stipulated mechanisms to enforce financial oversight and enforceable control to safeguard the implementation of funding-related provisions in Moldova. One shall see what the effects from the implementation of the new law on parties will be.

**20b** *In law, there are limits on individual donations to political parties.***Score:** YES**References:** Art. 26 of the Law on political parties, adopted in 2007, No.294 - XVI**20c** *In law, there are limits on corporate donations to political parties.***Score:** YES**References:** Art. 26 of the Law on political parties

**Social Scientist's Comments:** It stipulates a list of prohibitions for corporate donations financing political parties. For instance, donations made by a legal entity to one or multiple political parties in one budgetary year cannot exceed 1,000 average monthly salaries per economy for the respective year. Direct or indirect financing of political parties is banned by foreign states or international organizations, or by companies which are financed by the state or operates with the state capitals, by non-commercial organizations, trade unions, philanthropic, religious organizations, by citizens of Moldova residing abroad, by physical persons who are not citizens of Moldova, by anonymous persons, or on behalf of third parties.

**20d** *In law, there are limits on total political party expenditures.***Score:** YES**References:** Art. 28 of the Law on political parties

**Social Scientist's Comments:** Annual allocations to the state budget for financing political parties represent 0.2 percent of the revenues stipulated by the state budget for the respective year, i.e. 50 percent to political parties, in proportional scale to the number of mandates obtained in parliamentary elections and validated, 50 percent to the political parties, in proportional scale to the number of votes obtained in local general elections, with the condition that they have got not less than 50 mandates in the representative bodies of the second level administrative-territorial units.

**20e *In law, there are requirements for the disclosure of donations to political parties.***

**Score:** YES

**References:** Art. 27 of the Law on political parties

**Social Scientist's Comments:** It stipulates that each political party is responsible for the maintenance of a special register of donations received, in which private and public donors will be listed. If control bodies will find that contributors have exceeded their permitted level of donations, they will be transferred automatically to the state budget.

**20f *In law, there are requirements for the independent auditing of the finances and expenditures of political parties.***

**Score:** YES

**References:** Art. 30 of the Law on political parties

**Social Scientist's Comments:** It specifically stipulates that parties shall submit their financial reports, annually, to the Ministry of Justice, Ministry of Finance and Auditing Court, providing that they might be checked by one of the ministries, such as the Ministry of Finance (fiscal inspectorate) or the Auditing Court.

**20g *In law, there is an agency or entity that monitors the financing of political parties.***

**Score:** NO

**References:** The newly adopted law of 2007 does not stipulate the creation of a specialized agency entitled to monitor the financing of political parties.

**Peer Reviewer's Comments:** The Accounting Chamber (Curtea de Conturi) or Prosecutor's Office can double-check party financing.

## 21: Are there regulations governing the financing of individual political candidates?

### 21a *In law, there are regulations governing private contributions to individual political candidates.*

**Score:** YES

**References:** Art.38 of the Election Code stipulates the conditions through which individual or corporate donations can be wired to political candidates and political parties. Art.29 of the Law on political parties (2007) stipulates the procedure of wiring the private contributions, and how the public (state) contributions can be utilized by the recipients (political parties).

### 21b *In law, there are limits on individual donations to political candidates.*

**Score:** YES

**References:** Art.26 (3) stipulates that a physical person (individual contributor) can pay not more than the equivalent of 500 average monthly salaries per year to one or more political parties.

### 21c *In law, there are limits on corporate donations to individual political candidates.*

**Score:** YES

**References:** Art.29 of the Law on political parties stipulates that corporate donations to individual political candidates (parties) shall not exceed the equivalent of 1,000 average monthly salaries for the respective year.

### 21d *In law, there are requirements for the disclosure of donations to individual political candidates.*

**Score:** YES

**References:** Art.31 of the Law on political parties stipulates that information of the expenditures used by political parties shall be publicly available. Political parties will present regular reports to the CEC during the election campaign. In case the information is incomplete or fraudulent, CEC will apply to the Court of Supreme Justice with an appeal to suspend the party's participation in the campaign. Data collected by CEC will be placed on its website. CEC may request additional information to assess the level of legality of the funding received by political parties.

### 21e *In law, there are requirements for the independent auditing of the campaign finances of individual political candidates.*

**Score:** NO

**References:** The Law on political parties does not mention the need for independent auditing of the campaign finances of individual political candidates. It bases the control of the political expenditures only on the direct involvement of the tax inspectorates, at the order of the Ministry of Finance or of the Auditing Court, when it may consider this necessary.

**Peer Reviewer's Comments:** As well as prosecutor's office, if officially asked to do so (by a group of MPs or a party, for example).

**21f** *In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.*

**Score:** **NO**

**References:** There is no agency or entity that would monitor the financing of individual political candidate's campaigns, although citizens may notify the existing election specialized body, Central Election Commission, which may start investigations of the political candidates. Parties are verified, according to articles 27-30 of the Law on political parties.

## 22: Are the regulations governing the political financing of parties effective?

**22a** *In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.*

**Score:** 50

**References:** Coalition 2005, 2007

**Social Scientist's Comments:** It is rather difficult to assess the effectiveness of the new law since it came into effect only in January 2008. As in the past political financing was one of the less studied fields of party campaign deals, we may suspect that some parts of their previous legacies will be multiplied after the new law will be applied. In addition to the specific financial flows from private and corporate donors, the law does not prohibit the use and abuse of administrative resources. The judiciary has limited operational capability to intervene when violations from the incumbent state officials will appear in election times. Voters are bribed with generous contributions from the state agencies and participation of state officials in directing benefits to clientele groups. State officials use media groups controlled by the government; the limited space that the opposition benefits from may hinder pluralist foundations of the political regime.

**22b** *In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.*

**Score:** 50

**References:** Law on political parties No.294 of Dec. 21, 2007 [\[LINK\]](#) Problema finantarii a fost pe jumtate solutionata; [\[LINK\]](#) Modul de finantare a alegerilor in Adunarea Populara a Gagauziei este imperfect; [\[LINK\]](#)

**Social Scientist's Comments:** The law will be enforced as of January 2009 for parliamentary national elections. The law has been already contested, as it does not stipulate the mechanism of financing elections in the Gagauz Autonomy.

**22c** *In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.*

**Score:** 25

**References:** Luare de cuvint la proiectul legii cu privire la partidele politice-  
<http://www.filat2007.md/discursuri.php?s=2> Starting with 2009, Political Parties Will Be Financed from The State Budget; BBC, Dec. 21, 200 [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#)

**Social Scientist's Comments:** Transparency International-Moldova experts point out that campaigns and financing of political parties shall be kept separate. Experts say that the principles for the provision and receipt of donations, ensuring transparency of donations and contributions, avoiding artificial obstacles for political parties, are not fully enshrined by the new law of 2007 on political parties. Experts regret that the maximum level of contributions are indicated by law, hindering the freedom of parties. The existing system does not stipulate explicitly that parties shall report publicly their expenditures; it also does not stipulate the frequency of reporting or terms and places for the reporting.

**22d In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.**

**Score:** 25

**References:** Law of the political parties, No.718-XII of Sept. 17, 1991

**Social Scientist's Comments:** The law will come in force on Jan. 1, 2009, two months from before the new general elections. It is therefore premature to say how it will work then.

**22e In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.**

**Score:** 0

**References:** [\[LINK\]](#)

**Social Scientist's Comments:** There are no precedents when penalties were imposed on political parties for fraudulent use of finances during elections. CEC has often requested publication and presentation of auditing reports, but with no practical consequence.

**22f In practice, contributions to political parties are audited.**

**Score:** 25

**References:** Legislatia partidelor; Quo Vadis si in ce mod? Sergiu Grosu, [\[LINK\]](#)

**Social Scientist's Comments:** Critics voiced their dissent of the new law from 2007, because it failed to consider proposals and even reiterated some provisions (for instance, related to the ban on some political parties), which have been earlier qualified as 'unconstitutional' by the Constitutional Court - art.41. Nevertheless, the law was adopted without prior consent and internal discussions, while later legal comments received from the Venice Commission were disregarded by the legislative chamber of Moldova.

**23: Are the regulations governing the political financing of individual candidates effective?**

**23a** *In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.*

**Score:** 25

**References:** [\[LINK\]](#) - [\[LINK\]](#) [\[LINK\]](#) CDPD Declaration at The End of the Spring Session of the Parliament [\[LINK\]](#) Finantarea partidelor politice are drept criteriu de distribuire rezultatele obtinute in alegeri. [\[LINK\]](#)

**Social Scientist's Comments:** It is difficult to assess since the new law has only been recently adopted will only be enforced in 2009.

**23b** *In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.*

**Score:** 0

**References:** The new law on political parties (2007) stipulates in art. 25 only the following ways to finance political parties: membership fees, donations, including those collected on various cultural, sport and other mass activities, subventions from the state budget and other legal incomes obtained from their properties, transportation, editorial houses, etc.

**Social Scientist's Comments:** In practice, individual candidates and parties use black/double accountability. They never report their financial spending to the appropriate institutions, while CEC does not have enough capacity to enforce its decisions. Considerable spending on party organization is usually a result of clientele-based relations with businesses, or a result of abusive management of state properties, for those who get in power. Although, the new party set up a mechanism of transparent and accountable financing for political parties, the ruling elite made it come into force only in January 2009, right before elections, for tactical reasons: first, to finalize the construction of the CPRM new office, a five-floor building downtown in the capital; second, to allow no possibilities for the businesses to finance opposition parties, under the risk of being assailed by control fiscal bodies.

**23c** *In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.*

**Score:** 0

**References:** There is no an independent entity monitoring elections. In practice, three agencies can monitor: Ministry of Finance, Ministry of Justice and Auditing Chamber. In addition the CEC may request financial reports, but in practice this has not yet been tested. Financing will be disbursed from the state only as of 2009.

**23d** *In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.*

**Score:** 25

**References:** It cannot be assessed since the financing of parties will only begin in 2009.

**23e** *In practice, the finances of individual candidates' campaigns are audited.*

**Score:** 25

**References:** Filat, acuzat ca foloseste bani murdari pentru a-si consolida partidul; [\[LINK\]](#)  
] Adept- [\[LINK\]](#) De ce grupul Ascom isi retrage stafful de baza din Moldova? - [\[LINK\]](#)

**Social Scientist's Comments:** In 2008, political parties in the Moldovan Parliament accused each other of financing their operations from unclean sources of money. However, this cannot be seen as a proof of enforcing the legislation (the recent law adopted in 2007 on political parties), as this serves more as an instrument of struggle for power.

## 24: Can citizens access records related to the financing of political parties?

**24a** *In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.*

**Score:** 25

**References:** The law stipulates that parties must disclose their revenues, but the new law on political parties adopted in 2007 will only come into force in 2009. There is no tradition of oversight over finances and resources used by political parties for their functioning, as well as administrative resources used between elections.

**24b** *In practice, citizens can access the financial records of political parties within a reasonable time period.*

**Score:** 25

**References:** Citizens cannot access the financial records of political parties. The largest part of their resources are assumed to be brought directly in cash benefits, without an open and legal system of accounting. The new law may change the situation, but it will be enforced only as of January 2009.

**24c** *In practice, citizens can access the financial records of political parties at a reasonable cost.*

**Score:** 0

**References:** This information cannot be accessed with costs or without costs. Political parties are strongly dominated by the oligarchies who pay their expenditures, while small parties cannot launch campaigns because of the shortage of funding. Citizens are completely unaware about the political financing during elections.

## 25: Can citizens access records related to the financing of individual candidates' campaigns?

**25a** *In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.*

**Score:** 50

**References:** Election Code, art. 35

**Social Scientist's Comments:** It stipulates campaign financing is set up by the Parliament, while the CEC regulates later the proportional distribution of resources to the candidates in national elections. Local elections are financed as well, but the largest share of state funding is directed to national elections. Electoral candidates may receive loans from the state, which will be returned later if they do not obtain the necessary seats, as set up by the CEC. Disclosure of the corporative funding or funding of the physical entities is not regulated by the Election Code.

**25b** *In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.*

**Score:** 50

**References:** Election Code, art. 38

**Social Scientist's Comments:** It stipulates that candidates must disclose their incomes for the campaign at the end of the first month of the campaign, which means that citizens can theoretically request CEC to get access to it. In practice, parties have not provided reliable information, and CEC did not invest enough efforts in receiving the reports citizens might have inquired.

**25c** *In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.*

**Score:** 25

**References:** Election Code, No.1381 - XIII of Nov. 21, 1997, art. 35, stipulates the mechanism of financing election campaign, i.e. the means which the state will allocate to the election actors and loans that can be requested from the state for election purposes. However, there is no provision of transparent management. Candidates shall report to the state on the expenditures used and those which shall be returned (if not spent), but no disclosure procedures are stipulated. Another law on political parties, No.294 - XIV of Dec. 21, 2007 provides a more detailed description of the disclosure procedures and accountability rules, but it will be enforced only as of January 2009. [\[LINK\]](#)

**Social Scientist's Comments:** The only financial reports published in the last elections (2007) belonged to the election bodies in charge with organizing the elections. See [\[LINK\]](#), [\[LINK\]](#)

Most of the opposition party leaders stated the new law on financing political parties is discriminatory towards the rest of parties, except the Communist party and the Christian-Democratic Popular Party leaders. [\[LINK\]](#)



## 26: Can citizens sue the government for infringement of their civil rights?

### 26 *In law, can citizens sue the government for infringement of their civil rights?*

**Score:** YES

**References:** Constitution1994), art.16 - equality of all citizens before law and public authorities, irrespective to race, nationality, ethnic origins, language, faith, gender, opinions, political belonging, social statute.

**Peer Reviewer's Comments:** The Law on Administrative Court provides the legal framework to bring complaints on the actions of governmental bodies.  
[http://lex.justice.md/index.php?action=view&view=doc\)=1&id=311729](http://lex.justice.md/index.php?action=view&view=doc)=1&id=311729).

## 27: Can the chief executive be held accountable for his/her actions?

### 27a *In practice, the chief executive gives reasons for his/her policy decisions.*

**Score:** 25

**References:** The constitution defines the government as being accountable to Parliament (art.104), which confirms its structure through a confirmation vote (votul de investitura (art.98)). On the basis of a political program, the government is entitled with the simple majority of the elected MPs, but it also can be revoked (art.103) if Parliament will express its 'vote of mistrust'. This will automatically provoke the dismissal of the government and the presentation by the president of a new candidate for the position of prime minister. Art.7 of the Law on Government stipulates when the vote of confidence is necessary to support the legitimacy of the government - Law on Government No.64 - XII of May 31, 1990

**Social Scientist's Comments:** A draft law on transparency of the governmental activities is being lobbied right now by some NGOs in Moldova, but it is unclear whether it will be approved for legislative discussions this year. The draft law aims to increase the accountability and transparency of the governmental decisions.

**Peer Reviewer's Comments:** The draft law on transparency of governmental activities was adopted by Parliament, in the first reading, on Oct. 16, 2008. The draft law probably will be adopted in the final reading in mid-November 2008.

**Peer Reviewer's Comments:** The law was passed in October. At the same time, another law on state secrets was passed, raising concerns over increased secrecy in public sector.

**Peer Reviewer's Comments:** The law on transparency of executive decisions was adopted in October 2008.

### 27b *In law, the judiciary can review the actions of the executive.*

**Score:** YES

**References:** By constitution, citizens are equal before law, and therefore the executive can be sued in justice. If human rights are infringed upon, then every citizen may appeal in court. The Law on administrative contentions (NO.793-XIV of Feb.10, 2000) stipulates the aim of the 'administrative contentious' as a legal instrument which shall counteract the abuses or the excess of authority, protecting the rights of individuals in the name and spirit of the law, regulate the activities of the public authorities and ensure the respect to the public order and rule of law(art.1). Every person who feels their rights have been prejudiced by a public authority, by action or inaction, may address an appeal to the instance of administrative contentious, which is competent to claim the abolishment of the act which prejudiced the

applicant, to recognize the claimed right and resolve the reparation of the prejudice.

**27c In practice, when necessary, the judiciary reviews the actions of the executive.**

**Score:** 50

**References:** Contenciosul Administrativ in Republica Moldova, iunie 2006- [\[LINK\]](#)  
 Forumul juristilor Moldovei- [\[LINK\]](#) - Lita pentru apararea drepturilor consumatorilor din Moldova- [\[LINK\]](#)

**Social Scientist's Comments:** Nevertheless, the same Law excludes the political acts issued by the Parliament, president of Moldova, and the government, as well as administrative acts with individual character, adopted by the Parliament, president and government, within the framework of its constitutional and legislative norms, pertaining to the election, dismissal or appointment of high-rank officials, acts of foreign policy, etc. The law stipulates the right of every person to notify the authority which infringed upon someone's rights to revoke/change its acts, and when the response (in 30 days) is not satisfactory, the person (legal or physical) may appeal again in a court of administrative contentious. However, there are no separate ordinary courts for administrative contentious, therefore the examination of the cases on administrative contentious is really a difficult procedure.

**27d In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.**

**Score:** 50

**References:** The Constitution (1994) stipulates the competence of the government (art.102) to adopt decisions, ordonances and orders. Orders are issued on the basis of art.106/2. Orders are usually used by the prime minister to organize the internal activity of the government. Law on Government No. 64-XII of May 31, 1990, stipulates the main competencies of the government in the fields of education, economy, infrastructure, culture, foreign policy, etc. (Chapter II).

**Social Scientist's Comments:** The competencies employed by the government to regulate various fields of the economy and society were often a subject for the intervention of the Constitutional Court, which oversee the legality and constitutionality of the acts issued by the president, laws adopted by the Parliament, and orders of the government. [\[LINK\]](#) [\[LINK\]](#)

## 28: Is the executive leadership subject to criminal proceedings?

### 28a *In law, the heads of state and government can be prosecuted for crimes they commit.*

**Score:** YES

**References:** The Constitution stipulates the procedure to dismiss the government (art.103) in case the legislative house expresses a vote of lack of confidence with one fourth of the MPs elected in Parliament. Until the replacement of the government with a new Cabinet, it may only issue a limited number of functions related to public management. Art. 89 of the Constitution stipulates the dismissal of the president, when he committed actions which violate the provisions of the constitution, if the accusation is voted by the two thirds of the MPs. A proposal to dismiss the president can be launched by at least one third of the MPs.

**Social Scientist's Comments:** There have been attempts to suspend the mandates of the president, but all of them failed to collect the necessary support even after the adoption of the 1994 Constitution.

### 28b *In law, ministerial-level officials can be prosecuted for crimes they commit.*

**Score:** YES

**References:** By Constitution, members of the Cabinet of Ministers may suspend their positions in cases of resignation, revocation, incompatibility or death (art.100). Art. 29 of the Law on Government stipulates that ministers are responsible for the fields they are entitled to administrate. Civil servants can be prosecuted if they fail to accomplish their direct responsibilities, according to the Law on civil service (No.443 - XIII of May 4, 1995), or violate the restrictions stipulated by art.11 of the same law for civil servants. A new law on Civil Service has been prepared, but has not yet been adopted by the Parliament of Moldova.

**Social Scientist's Comments:** Although some political parties attempted to adopt a Law on ministerial responsibility during 2000-2002, this appeared to be almost impossible. The Executive did not agree to convene upon certain specific regulations on the prosecution of ministerial level officials for committed irregularities.

**29: Are there regulations governing conflicts of interest by the executive branch?**

**29a** *In law, the heads of state and government are required to file a regular asset disclosure form.*

**Score:** YES

**References:** Law on the declaration and control of incomes and properties belonging to the state officials, judges, prosecutors, other public officials, as well as of persons with important leadership positions - No0.1264 - XV of July 19, 2002

**Social Scientist's Comments:** Yes, they are required to file asset disclosures. However, the effective declaration of incomes has been contested by the civil society after being suspended several times, as officials never conformed with the legal provisions of the law, or they have provided inaccurate information on their incomes and revenues, properties, etc. See *Avere la Vedere!* [\[LINK\]](#) [\[LINK\]](#)

**Peer Reviewer's Comments:** Since 2001, the Central Commission responsible for the revenue and asset statements did not identify a single infringement of the law, and did not inform the Center of Combating Economic Crimes and Corruption of any irregularities, as given the right by law.

**29b** *In law, ministerial-level officials are required to file a regular asset disclosure form.*

**Score:** YES

**References:** Law on declaration of revenues and properties - No.1264 - XV of July 19, 2002 Law on preventing and curbing corruption - No.90 - XVI of April 25, 2008

**29c** *In law, there are regulations governing gifts and hospitality offered to members of the executive branch.*

**Score:** YES

**References:** Law on the conflict of interests, No.16-XVI of Feb.15, 2008

**Social Scientist's Comments:** Legislation is not respected in what regards the hospitality and gifts provided to high rank officials. *Ziarul de garda*, No.192, Aug. 14, 2008

**29d** *In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).*

**Score:** YES

**References:** Art.14 of the Law on conflict of interests stipulates the procedure for disclosing any possible conflict of interests, allocating the function of controlling to the heads of the public organizations, and a general Ethics Commission. At the central level of administration, there is a special committee entitled with the oversight and control of conformity of the declarations of incomes and properties provided by civil servants and high-ranked officials of the government - art.9 of

the Law No.1264 - XV of July 19, 2002

**Social Scientist's  
Comments:**

The law leaves unclear who is entitled to oversee the ministers and heads of state, particularly in Moldova, where they have expanded their power over the legislative and judicial branches.

**29e In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.**

**Score: NO**

**References:**

The Moldovan legislation does not explicitly prohibits heads of state and governmental officials to hold business positions after leaving the government. Most former prime ministers and ordinary ministers reported outstanding performances in business soon after leaving their official positions (Sangheli, Ciubuc, Braghis, Sturza).

**29f In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.**

**Score: 25**

**References:**

V.Vronin este cel mai bogat demnitar moldovean- [\[LINK\]](#) Oleg Voronin - vistiernicul clanului Voronin [\[LINK\]](#) Comentarii politice - [\[LINK\]](#) Demnitarii cu afaceri ilicite, in loc sa fie trasi la raspundere, sunt avansati -[\[LINK\]](#)

**Social Scientist's  
Comments:**

There is no effective enforcement of the latest laws and regulations. The ruling party has a prohibitive policy towards civil society organizations, which are more active as they were in the previous years, but face the same resistance from state officials when they investigate declarations of incomes and properties, acquisition policies, etc.

**29g In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.**

**Score: 25**

**References:**

Ziarul de Garda, No. 192 (14 august) 2008 - Cadourile corupte ale demnitarilor Reflectarea fenomenului coruptiei in mass media- [\[LINK\]](#) Transparency International Moldova: In 2007, Moldova was ranked 111 out of 179 countries in the corruption survey. A Survey conducted by IMAS in 2007 revealed that seven out of ten individuals believe that corruption in Moldova is widely spread, placing corruption fourth in the rank after poverty, high prices and unemployment.

**29h In practice, executive branch asset disclosures (defined here as ministers and above) are audited.**

**Score: 25**

**References:**

Ce ascund demnitarii moldoveni cind refuza sa-si faca publice averile?- [\[LINK\]](#)

**Social Scientist's  
Comments:**

When Access-Info Association and the Center for Media Investigations tried to apply the existing rules and regulations to reveal the income declarations of civil servants, they found that public authorities are not in fact open to provide such data. Both organizations have sent over requests of information to 1,300 of public authorities. They received answers from only one third of them; only 46 of reported diligently on the questions formulated. [[LINK](#)]

### 30: Can citizens access the asset disclosure records of the heads of state and government?

#### 30a *In law, citizens can access the asset disclosure records of the heads of state and government.*

**Score:** NO

**References:** Law on the declaration and control of incomes for the state officials, judges, prosecutors, civil servants and other persons with official positions, No.1264-XV of July 19, 2002

**Social Scientist's Comments:** Art.10 of the Law stipulates that declarations presented by state officials are 'confidential' and that control over the reliability of the declared data is a competence of the Center for Combating and Preventing Economic Crimes. Art.12 of the same law states that officials who will be entitled to verify the conformity of data presented by the state officials have to treat this information as a 'state secret'. See for instance *Ilegalitate la ptrat - Jurnal de Chisinau - editia nr. 738, 25 Iulie 2008* [\[LINK\]](#)

#### 30b *In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.*

**Score:** 25

**References:** Campania 'Avere la vedere- [\[LINK\]](#) By law, the Central Control Committee is entitled to publish only an excerpt of the declarations presented by officials, and usually this is taking place irregularly, with delays, and with incomplete information. In 2007, the CCC did not publish any kind of reports on the declaration of incomes. But, the law does not prohibit officials to publish their declarations on their own initiative, therefore the press tries to create a positive environment where some of them will think positively and declare publicly their incomes and properties. Moreover, the law obliges officials to publish their incomes only on the last year of activity, and not all properties and incomes they really own (!), therefore, various interpretations are still eroding the credibility of the adopted legislation.

**Social Scientist's Comments:** A Coalition between the Alliance Against Corruption and the Association of Independent Press (API) was established in January 2008 to oversee the declaration of incomes by the officials, i.e. monitor the implementation of the new laws on anti-corruption in Moldova - Law.1264 - XV of July 19, 2002. A special monthly bulletin OBIECTIV was launched as a monitoring tool for this campaign.

**Peer Reviewer's Comments:** As a result of the media campaign "Property in Sight," 20 state officials and MPs agreed to publish their income and propriety statements on the website of the Association of Independent Press. ([http://api.md/cgi/page.cgi?g=\)=ro&id=4335&d=1](http://api.md/cgi/page.cgi?g=)=ro&id=4335&d=1)) Also as result of the campaign, the Central Control Committee (CCC) was forced on April 2, 2008, to distribute to mass media excerpts of the declarations submitted by officials in 2007. But, in the list from

the CCC were the declarations of only 72 of 101 MPs, and the declarations of five ministries were missing. According the CCC, these high officials refused to declare their income and property. (<http://api.md/articles/4936/index.html>)

On May 29, 2008, Parliament adopted a modification to the Article 13 of Law 1264-XV. The MPs decided that starting in 2009, excerpts of the declarations of high-officials must be published on official websites.

**30c *In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.***

**Score:** 25

**References:** Campania 'Avere la vedere' - May 31, 2008 - list of officials who have declared their incomes and revenues for 2007- [\[LINK\]](#) [/news/4335/index.html" target="\\_blank">](#)[ LINK ] Bufonada declaratiilor de avere - Jan. 31, 2008- <http://www.api.md> [\[LINK\]](#) Ce ascund demnitarii moldoveni atunci cind refuza sa-si faca publice averile? [\[LINK\]](#)

**Social Scientist's Comments:** The first official who declared his own incomes was the speaker of the Parliament, in 2008. The second official was former prime-minister, D. Braghis. As in 2007, state officials did not make public their incomes, while the CCC (the body delegated with the responsibility to provide the public with data on this process) did not collect the necessary information. Generally, the media and the public are not at all satisfied with the attitudes manifested by the state officials and specialized agencies to fight corruption.

**Peer Reviewer's Comments:** As a result of the media campaign "Property in Sight", 20 state officials and MPs agreed to publish their income and propriety statements on the website of the Association of Independent Press. (<http://api.md/cgi/page.cgi?g=ro&id=4335&d=1>) Also, the new modification of Article 13 of Law 1264-XV states that excerpts of the declarations of high officials must be published on official websites. This will make these documents more accessible to citizens in 2009.

### 31: Official government functions are kept separate and distinct from the functions of the ruling political party.

**31** *In practice, official government functions are kept separate and distinct from the functions of the ruling political party.*

**Score:** 25

**References:** [\[LINK\]](#) Situatia in Moldova inainte de alegeri - [\[LINK\]](#). [\[LINK\]](#) [\[LINK\]](#)  
See also the 'Stockholm Syndrome of The Communist Leadership of Moldova' - [\[LINK\]](#)

**Social Scientist's  
Comments:**

In 2008, the ruling Communist Party of Moldova held its VI Congress, which was expected to change some important aspects of its programmatic and ideological outlook, but it failed to do so. Despite the weaknesses, PCM remained strong in polls, at arm distance from the largest opposition parties during 2007-2008.

The ruling communist party is accused continuously in national and international press for its authoritarian style and attempts to rule the country as it was possible in the Soviet one-party system. Although it tolerated opposition, it succeeded to cut off its political rivals from sources of funding (by controlling the economy) and mass media (by monopolizing the main media groups, private and public). Since 2001, it launched a strong cleansing campaign in the civil service, by installing 'verified people' in the state administration, instead those who were 'filtering' with the opposition. At the local level, since the 2003 local elections, the ruling party attempted to install a 'vertical of power', rather influenced by the model of the 'administrated democracy' of Russia. Most reports (Freedom House, Bertelsman Transformation Index, Reporters sans frontiers,) have assessed negatively the situation of democracy in Moldova. In 2002, two successive resolutions were adopted by the Parliamentary Assembly of the Council of Europe on Moldova on the 'situation of democratic institutions', as a result of the mass protests of the opposition against the ruling party's policies.

### 32: Can members of the legislature be held accountable for their actions?

#### 32a *In law, the judiciary can review laws passed by the legislature.*

**Score:** YES

**References:** Constitution (1994) Art.134 stipulates that only the Constitutional Court can review the laws adopted by the Parliament, and it is the only authority with constitutional jurisdiction in Moldova. It is an independent public authority, which is responsible only to the constitutional provisions. Law on the Constitutional Court of RM - No.317-XIII of Dec.13, 1994  
[\[LINK\]](#)

#### 32b *In practice, when necessary, the judiciary reviews laws passed by the legislature.*

**Score:** 100

**References:** In practice, the Constitutional Court is quite an active and efficient body, supervising the constitutionality of the legislation adopted by the Parliament. It is trusted by the politicians, but fluctuated in visibility. Nevertheless, the CC is the only body of constitutional jurisdiction, autonomous and independent from the executive, legislative and judiciary. Its task is to secure the supremacy of the constitution (1994), to ensure the principle of separation of state powers into the legislative, executive and judicial branches, to guarantee the observance of state responsibilities towards its citizens. See Arts.134-140 of the Constitution

**Social Scientist's Comments:** <http://www.moldova.md/news/1211/1/2849> - In 2007, changes were discussed to the statute of the CC to make available to the ordinary citizens the right to appeal directly when there are cases of constitutional irregularities. Until now, the list of applicants is shorter, and it is usually referred to executive authorities, MPs, president, Parliamentary attorneys etc. The CC has a large number of notifications/appeals on which it regularly produces constitutional assessments, which become final and irrevocable, and cannot be interpreted.

**Peer Reviewer's Comments:** Although active in reviewing laws passed by parliament when asked to do so, CC is not fully independent from the political point of view, and cases were registered in which its decisions favored the ruling party.

#### 32c *In law, are members of the national legislature subject to criminal proceedings?*

**Score:** YES

**References:** Art.70 of the Constitution provides to the members of the national legislature the immunity statute, i.e. they cannot be arrested, detained, or search warranted without the consent of the Parliament. By Constitution, MPs are in service of the nation, therefore their mandate is imperative - it cannot be called back (art.68). Art.71 states that MPs cannot be subject to criminal proceedings for their opinions or for their votes.

**Social Scientist's Comments:** Between 2001-2005, the Parliament attempted repeatedly to lift the immunity of some opposition deputies, but without much success.

**Peer Reviewer's Comments:** On Nov. 23, 2006, Parliament examined a request by the prosecutor general and decided to withdraw immunity from Deputy Vasile Colta. Most lawmakers decided after a secret vote that there was evidence to punish Colta under the Penal Code on cigarette smuggling charges and under the Code of Contraventions for hurting some persons. <http://www.e-democracy.md/en/e-journal/20061201/>  
On May 21, 2007, Colta was sentenced to five years in prison for embezzlement, though the sentence was suspended.  
[http://www.europarl.europa.eu/meetdocs/2004\\_2009/documents/dv/d-md20070911\\_06/d-md20070911\\_06en.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dv/d-md20070911_06/d-md20070911_06en.pdf)

### 33: Are there regulations governing conflicts of interest by members of the national legislature?

#### 33a *In law, members of the national legislature are required to file an asset disclosure form.*

**Score:** YES

**References:** Law No.1264-XV of Feb. 19, 2002 stipulates that MPs are to be considered state officials, therefore, they shall present regular reports over their properties, assets and incomes during the last year of activity.

#### 33b *In law, there are restrictions for national legislators entering the private sector after leaving the government.*

**Score:** NO

**References:** The instituted Control Central Committee on Income and Properties aims to verify and assess declaration of incomes only for the incumbent officials, and no other prohibitions are referred to the state officials leaving their positions. Law on preventing and combating corruption - No.90-XVI of April 25, 2008 equally finds no remedies against those who may enter the private sector after leaving government.

#### 33c *In law, there are regulations governing gifts and hospitality offered to members of the national legislature.*

**Score:** YES

**References:** Law No. 900 of June 27, 1996 on combating corruption and protectionism. The law stipulates (art.8) several restrictions imposed to the civil servants during their official positions: to receive any reward, in cash or services, from any legal or physical entity, non-state organization or NGOs, to receive gifts or souvenirs during some protocol meetings, except some hospitality signs which will not exceed the value of a minimum salary.

**Social Scientist's Comments:** Mass media have investigated several cases of gifts received by the highest ranked officials in Moldova, not publicly declared, including guns and expensive objects, which can be considered as proof of their inappropriate behavior. [\[LINK\]](#) Conflictul de interese reprezinta o situatie in care persoana... [\[LINK\]](#)

#### 33d *In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.*

**Score:** NO

**References:** State officials are expected to declare their incomes and properties through a standard declaration to the Central Control Commission, formed by the government, on the basis of the Law adopted in 2002 for the declaration and control of incomes and properties of state officials, judges, prosecutors, civil servants and other officials with high-rank positions - No.1264-XV of July 19, 2002. No independent auditing is requested, although the legislation stipulates some cooperation with civil society.

#### 33e *In practice, the regulations restricting post-government private sector employment for national legislators are effective.*

**Score:** 0

**References:** Moldovan legislation does not restrict the involvement in business of former state officials or legislators, so it is not possible to assess whether this could be effectively implemented. Care-i nivelul real al coruptiei in Moldova? [\[LINK\]](#) V.Voronin este cel mai bogat demnitar moldovean [\[LINK\]](#) - April 2, 2008

**Social Scientist's Comments:** Art.10 of the Law on combating corruption and protectionism - No.900 of June 27, 1996, stipulates that at the time of recruitment/staffing, candidates are requested to present a Declaration of revenues/properties. By comparison, there is no specific provision requesting the same declaration of revenues/properties when people decide to leave their official positions.

**33f In practice, the regulations governing gifts and hospitality offered to national legislators are effective.**

**Score:** 25

**References:** [\[LINK\]](#) 29 de primari si functionari publici din RM figureaza in diverse dosare de coruptie- [\[LINK\]](#) [\[LINK\]](#)

**Social Scientist's Comments:** Mass media have investigated several cases of gifts received by the highest ranked officials in Moldova, not publicly declared, including guns and expensive objects, which can be considered as proof of their inappropriate behavior. [\[LINK\]](#) Conflictul de interese reprezinta o situatie in care persoana... [\[LINK\]](#)

**33g In practice, national legislative branch asset disclosures are audited.**

**Score:** 50

**References:** Law on Auditing Court No.312-XIII of Feb. 8, 1994 stipulates that the Court must oversee the budgetary and financial situation of all public authorities financed from the state budget, i.e. Parliament. In its recent Report presented to the Parliament, the Auditing Court found that most state organizations and authorities have committed financial irregularities with public financing sources. See: [\[LINK\]](#) [\[LINK\]](#)

The chair of the Auditing Court claims the Court faced serious problems due to budgetary shortages, lack of skilled personnel, and execution of its decisions. The prime minister decided to increase executive attention upon the execution of the AC decisions - Sept. 18, 2008

**Social Scientist's Comments:** The latest Report of the Auditing Court, No.41 of June 13, 2008, presented to the Parliament did not include the oversight of the budgetary spending for the legislative chamber. Art.27 (5) OF THE IAW NO.312-xiii OF Feb. 8, 1994. The Auditing Court stipulates that the AC shall make its reports public, and they can be found on this website: <http://www.ccrm.md/file/raport/anexa2007.pdf>, Some of the public authorities, such as the presidency or the parliament, are not included in the official reports presented therein. The data is not available to the public, therefore journalist investigations are often discordant with the official reports.

### 34: Can citizens access the asset disclosure records of members of the national legislature?

#### 34a *In law, citizens can access the asset disclosure records of members of the national legislature.*

<b>Score:</b>	<b>NO</b>
<b>References:</b>	Law no.1264-XV of July 19, 2002 stipulates the obligation of the MPs to present their declarations to the Central Control Commission of the government, which may oversee and verify the data, but the information is considered confidential. The public may see only the statements of MPs who decide on their own to declare their assets.
<b>Social Scientist's Comments:</b>	The existing laws on asset disclosure only partially allow citizens to get necessary information from the authorities in charge with the income declarations of officials, and only if the officials accept their declarations to be made public, which at the end of the day, leaves no chance for exposing high rank officials to public scrutiny.
<b>Peer Reviewer's Comments:</b>	Article 13 (2) of Law 1264-XV passed in 2002 establishes two categories of information from asset declarations of top officials that must be published in national and local mass media and from 2009 on official websites: a) the total value of declared ownership, and b) a list of all the estate that constitutes ownership of the declarant showing whether it belongs to him with the title of ownership or use, including such found abroad. So, in law citizens can partially access the asset disclosure records of members of the national legislature. <a href="http://www.e-democracy.md/en/comments/legislative/200608312/index.shtml?print">http://www.e-democracy.md/en/comments/legislative/200608312/index.shtml?print</a> <a href="http://www.transparency.md/Laws/1264-02_en.pdf">http://www.transparency.md/Laws/1264-02_en.pdf</a>

#### 34b *In practice, citizens can access legislative asset disclosure records within a reasonable time period.*

<b>Score:</b>	<b>25</b>
<b>References:</b>	Demnitarii isi tainuesc averea, July 25, 2008, <a href="#">[LINK]</a> Prevederile ce tin de comunicarea cu mass media a functionarilor publici limiteaza dreptul la libera exprimare si accesul la informatie - April 3, 2008, <a href="#">[LINK]</a>
<b>Social Scientist's Comments:</b>	Press releases have been issued by the governmental body in charge with the collection of the income declarations of civil servants, but there is no realistic chance to access the declarations, which continue to remain secret, and are made up on the basis of last year's calculations. Repeatedly, the officials have ignored public investigations on the properties owned by state officials, and official sites of the public authorities do not post such information in most cases.
<b>Peer Reviewer's Comments:</b>	The Central Commission for the Control (CCC) of declarations on incomes and properties released to mass media on Aug. 25, 2006, some data on assets of first-ranking dignitaries of Moldova. In 2007, CCC didn't release any data. On April 2, 2008, CCC released the data on estate and incomes of 72 of 101 MPs. According to CCC, 29 MPs didn't submit to the CCC their declarations on incomes and properties. Beginning in 2009, the excerpts from the asset declarations of MPs will be published on website of Moldovan Parliament. <a href="http://api.md/articles/4936/index.html">http://api.md/articles/4936/index.html</a> <a href="http://www.azi.md/news?ID=49497">http://www.azi.md/news?ID=49497</a>

#### 34c *In practice, citizens can access legislative asset disclosure records at a reasonable cost.*

<b>Score:</b>	<b>0</b>
<b>References:</b>	The existing legislation does not stipulate fees for requesting information on income declarations of state officials (Law No.900 of June 27, 1996, as well as Law No.16-XVI of Feb. 15, 2008).

### 35: Can citizens access legislative processes and documents?

#### 35a *In law, citizens can access records of legislative processes and documents.*

**Score:** YES

**References:** Law on the Regulation of functioning of the Parliament, No.797 of April 2, 1996. The Regulation set up the operational structure of the Parliament by procedures, executive bodies which assist the functions carried out by the legislative house. Art.13 of the Regulation stipulates that a Permanent Bureau is responsible for setting up "the ways of public debates of the legislative drafts, collection and consideration of the opinions, ensuring the posting on the parliamentary web site - [\[LINK\]](#) - of the legislative drafts, legislative agenda, and records of the legislative discussions and documents."

**Social Scientist's Comments:** The work associated with the posting of legislative drafts has slightly improved since 2005. In 2007, the Parliament suspended the live broadcasting of legislative sessions, which served apparently to some political interests, thus limiting public access to the debates of the legislative.

#### 35b *In practice, citizens can access records of legislative processes and documents within a reasonable time period.*

**Score:** 75

**References:** In practice, the website of the Parliament became more functional and transparent during the past year. As a result of a new policy of legislative leadership, more contacts with civil society in 2007 had a positive impact on the general attitude of the executive bodies of the Parliament towards the reflection of the legislative work on their website, outlets, etc. A concept of cooperation between Parliament and civil society was approved by Parliament on Dec. 29, 2005 (No.373 - XVI), followed by a draft of the National Strategy for the creation of necessary preconditions for the development of the civil society during 2008-2011.

**Social Scientist's Comments:** Nevertheless, the website often has outdated information. The lack of qualified staff hinders the development of a fully-functioning web-site. A report entitled Technical Audit of the Informational System of the Parliament of RM and the analysis of processes and informational flows in the decision-making process revealed several drawbacks related to the counting of votes (p.6), maintenance of records, documents and information, management of documents, ambiguities deriving from the multiplicity of drafts entering the Secretariat of the Parliament from the political fractions. This creates chaos, and manipulative actions, eroding the credibility of the legislative. [\[LINK\]](#)

#### 35c *In practice, citizens can access records of legislative processes and documents at a reasonable cost.*

**Score:** 50

**References:**

By law, Regulation of the Parliament, information and records of legislative processes and documents can be accessed from the official web-site of the Parliament - [\[LINK\]](#). There is no other official procedure to purchase data from the Parliament. As an executive subdivision of the Parliament, an Information-Analytic Center is established therein, with the task to undertake full parliamentary documentation tasks, research and expertise to the MPs, maintenance of the data basis, evaluate and assess the public opinion on the Parliamentary image and activities. [\[LINK\]](#) functionalala

**Social Scientist's Comments:**

Results of the Access-Info monitoring of the application of the Law on Access to Information in 2008 shows that in most public institutions those soliciting information face difficulties in finding the person or official responsible for providing information in order to file an access to information request. Lately, on the plea of tight security and fight against cases of corruption, it became more complicated for people to physically access headquarters of central public institutions in order to submit access to information. As a rule, requests submitted by fax or email are delayed, while the simplest telephone calls turn into an interrogation (Why, what for, what is the goal?). So far the number of tacit refusals to provide information is high. Thus, according to preliminary results of national monitoring carried out by the Access-Info Center between December 2007 and March 2008, only 26,35 percent of central, district and local public institutions provided answers to their beneficiaries. This index varies from 19 percent of answers to requests of local non-governmental organizations to 36 percent of answers provided by non-governmental organizations for the protection of disfavored persons and private national mass media. Answers to requests for private local mass media account for 22 percent, answers to requests from national organizations which requested income declarations, 23 percent; answers to requests of curious citizens, 24 percent; answers to requests made by local mass media financed from public resources, 28 percent; and answers to requests submitted by national non-governmental organizations, 29 percent. [\[LINK\]](#)

**36: Are judges appointed fairly?****36a In law, there is a transparent procedure for selecting national-level judges.****Score:** YES

**References:** Law on the collegium for training and preparation of the judges of RM, No.949-XIII of July 19, 1996 Law on the statute of judges, No.544-XIII of July 20, 1995. Art.6 of the law stipulates the conditions to be met in order to be appointed as a judge by the Supreme Council of Magistrates. Art.9 stipulates the procedure of competition for the selection of national-level judges.

**36b In practice, professional criteria are followed in selecting national-level judges.****Score:** 50

**References:** Interview with Valeria Sterbet: In 2005, new amendments were made to reorganize the appointment of judges, of chairmen and vice chairmen of courts, i.e. of the Supreme Court. This was seen as an important step towards further consolidation of the Council of Magistrates. [\[LINK\]](#) Judecatorii Valeriei Sterbet- [\[LINK\]](#) - www.e-democracy.md/e-journal.20050706 - Pe ce criterii sunt numiti judecatorii in Moldova? [\[LINK\]](#) - Aplicarea neuniforma a legislatiei RM si problema accesului la justitie [\[LINK\]](#) -

**Social Scientist's Comments:**

The judiciary is not trusted by the population, as opinion polls regularly show. People associate the judiciary with bureaucracy and corruption (Opinion Barometer, IPP, 2007). Suspicions were caused by frequent cases when the judiciary sided with the government against individuals or private businesses, even without providing reasonable arguments for their final decisions. As a result, Moldova is now counted as the country which lost the largest majority of cases at the European Court of Human Rights. The transparent selection and appointment of judges was seen as a priority of the strategic development documents (EGPRSP, NDP), but still there were less results than expected.

**Peer Reviewer's Comments:** Reports by national and international organizations reveal that judges are being selected according to political loyalty and often do not meet professional standards. Hence, the Moldovan government keeps losing cases at ECHR for violating the same articles or legislation.

**36c In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).****Score:** YES

**References:** Law of the statute of judges, No.544 - XIII of July 20, 1995 - Art.11 stipulates that judges are appointed for five-year terms by the president of Moldova. They are selected from the pool of candidates proposed by the Superior Council of Magistrates. Members of the Supreme Court of Justice are appointed by the Parliament, also following proposals of the Superior Council of Magistrates.



### 37: Can members of the judiciary be held accountable for their actions?

**37a** *In law, members of the national-level judiciary are obliged to give reasons for their decisions.*

**Score:** YES

**References:** Anti-corruption laws equate the statute of members of the judiciary with other categories of high-ranked officials. They stipulate the compulsory character of declaring incomes and properties, on the basis of the same standard procedure. Laws: No. 900 of June 27, 1996 Law on the declaration and control of incomes and properties of the state officials, judges, prosecutors, other civil servants and persons with official positions, No.1264-XV of July 19, 2002

**Social Scientist's Comments:** The public image of the judiciary remains quite low, however, being ranked at 24,3 percent of public trust, after Parliament - 27,5 percent, police - 29,1 percent, church - 77,1 percent, Mayoralty - 44,3 percent, but before political parties - 14,3 percent (Opinion Barometer of IPP, April 2008) - [\[LINK\]](#)

**37b** *In practice, members of the national-level judiciary give reasons for their decisions.*

**Score:** 25

**References:** [\[LINK\]](#) - Coruptie si Injustitie: Plenul Curtii Supreme de Justitie (CSJ face de rusine RM in fata Consiliului Europei) - Sept. 20, 2008; Separate opinion of G.Bonello (Malta), Judge of the EHRC in the case no.31001 Flux vs Moldova, ended on July 3,2007 with condemnation of Republic of Moldova. He stated that some judges (Moldovan) have always made favorable decisions to the political authorities of the country, and not otherwise. [\[LINK\]](#) - Mentalitatea se schimba cel mai greu, Interviu cu Jean Paul Costa, Presedintele Curtii Europene pentru Drepturile Omului [\[LINK\]](#) - Restante si prioritati in domeniul justitie impiedica parteneriatul strategic al RM cu UE

**Social Scientist's Comments:** In practice, several judges are protecting the central administration against individuals who may apply in court to defend their rights as a default, for reasons of fearing they will be not appointed by the president, or for various rumors that they are corrupt.

**37c** *In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.*

**Score:** YES

**References:** Art.19 of the Law on the statute of judges (No.544-XIII of July 20, 1995) stipulates that only one body may apply administrative sanctions against judges, with prior consent of the Superior Council of Magistrates, when judges suspected of committing contraventions are liberated from their positions (art. modified in 2006). Professional experience and participation in training courses are the only accepted criteria for advancement of judges in their positions. - art.20

**Social Scientist's Comments:** Sometimes judges who served for political decisions in courts were promoted to the Supreme Court of Justice or as representatives of Moldova at the European Human Rights Court in Strasbourg. See - [\[LINK\]](#) [\[LINK\]](#), [\[LINK\]](#)

**37d In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.**

**Score:** YES

**References:** The 1994 Constitution states that the Superior Council of Magistrates is entitled to ensure the nomination/appointment, transfer, detachment and promotion in function, as well as disciplinary sanctions of judges (art.123). The Law on the Superior Council of Magistrates, No.947 of July 19, 1996. Art.25 of the Law stipulates that the SCM decisions are definitive and cannot be attacked. Art.1 of the Law provides that the SCM is exercising the self-administration of the judiciary in Moldova, under the provisions set up by the constitution, laws regulating the organization of judiciary power and the statute of judges, and other normative acts.

**37e In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.**

**Score:** 25

**References:** [\[LINK\]](#) [\[LINK\]](#) - The Supreme Court and Superior Council of Magistrates have not improve their activity significantly by initiating necessary investigations in the case of those whose decisions resulted in lost cases at the European Human Rights Court in Strasbourg, stated V.Turcan, chair of the Legal Commission of the Parliament of Moldova on March 21, 2008

**Social Scientist's Comments:** Advocates have claimed that some judges are publicly stating in the trial period that some cases are personally overseen by the president of Moldova. See, for instance, Press Conference of Dec. 24, 2007, by V. Turcan, who claimed that the president gives orders to judges. Turcan and requested an impeachment of the head of state.

**37f In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.**

**Score:** 25

**References:** [\[LINK\]](#) - Reforma judiciara si de drept in RM - conditie in vederea integrarii ei europene [\[LINK\]](#) coruptiei.pdf In practice, the sanctions imposed on judges who have committed irregularities of various character are rare.

**Social Scientist's Comments:** On Aug. 7, 2008, PRO-TV showed when a judge provided legal assistance to one of the parts in a trial. The Council of Magistrates did not reacted at all by disciplinary sanctions. [\[LINK\]](#)

### 38: Are there regulations governing conflicts of interest for the national-level judiciary?

#### 38a *In law, members of the national-level judiciary are required to file an asset disclosure form.*

**Score:** YES

**References:** Law No.1264-XV of July 19, 2002 stipulates no asset disclosure requirements for judges.

**Social Scientist's Comments:** A recent campaign staged by the Anti-Corruption Alliance 'Avere la Vedere' has shown a lot of evidences on the setbacks of the law on declaration and control of incomes and property of state officials, judges, prosecutors, and other decision-makers. Thus, the law allow for the republication of only extirpts from the declarations, while the Central Control Committee is presenting to the public general data with several delays, from the previous years, of declarations, which are extremely important for anti-corruption CBOs. The Law makes compulsory for the officials to declare their incomes only for the previous year, and not all incomes they do own at the moment when they are state-officials, and the same is for the properties, which is reported only from the last declaration to the new one, which makes the applplication of the law extremely ambiguous. These provisions are ambivalently understood by high top - ranked officials, and the Central Control Committee does not strongly disagree with their interpretations, which bar the access of the public to the true information.

**Peer Reviewer's Comments:** Article 3 (1) of Law 1264-XV, passed in 2002, stipulates that judges must submit annually a declaration of incomes and property. On July 1, 2008, Parliament modified the law to require publication of excerpts of judges' income and property statements on the website of the Superior Council of Magistracy.  
[www.justice.md/file/Raport%20trimestrul%20II%20Partea%201.doc](http://www.justice.md/file/Raport%20trimestrul%20II%20Partea%201.doc)  
<http://www.parlament.md/lawprocess/laws/april2008/77-XVI-10.04.2008/>

#### 38b *In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.*

**Score:** NO

**References:** Law on statute of judges, No.544-XIII of July 20, 1995 stipulates only that judges have the obligation to declare their incomes and properties (art.15).

#### 38c *In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.*

**Score:** NO

**References:** It seems that the self-governance body of the judiciary (Superior Council of Magistrates) has not yet accumulated a serious and trustful track record of investigative-mechanisms to alleged misconduct in Moldova. Due to their special statute, judges were skipped somehow from the latest amendments to the anti-corruption legislation; and given the fact that some of these regulations are rather easy to overcome or ignore

(obligation to declare revenues without appropriate public/transparent mechanism of verification), it cannot be traced when members of the judiciary receive additional sorts of interest from their decisions.

**38d *In law, there are restrictions for national-level judges entering the private sector after leaving the government.***

**Score: NO**

**References:** There is no regulation banning the entrance of judges into the private sector after leaving their positions.

**38e *In practice, the regulations restricting post-government private sector employment for national-level judges are effective.***

**Score: 0**

**References:** While the recruitment of judges (selection on a competitive basis - Law on statute of judges, No.544-XIII), oversight of their work and conduct (Law on the Superior Council of Magistrates, No.947) have been more or less regulated, there is no kind of normative act prohibiting or restricting the employment of former judges in the business sector after they leave their positions.

**38f *In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.***

**Score: 25**

**References:** No specific laws governing hospitality issues at the judiciary have been adopted so far. There is one Professional Ethical Code of Judges, approved at the Conference held on Feb. 4, 2000, which enlists a number of rules that judges must follow, such as: respect the application of the law, avoid being influenced by the political power, public opinion or mass media, avoid being pressed by other judges, keep confidentiality of trial information, etc. Rule No. 28 states that judges cannot receive gifts or other hospitalities as rewards, get loans or other services, if this is made with the scope of influencing the cause in consideration. [\[LINK\]](#)

**38g *In practice, national-level judiciary asset disclosures are audited.***

**Score: 25**

**References:** The Law on declaration and control of incomes and properties of the state officials, judges, etc. No.1264-XV of July 19, 2002, includes judges as a special professional group that is invited to declare incomes, but the fact that the Control Commission belongs to the government may restrict judges from fulfilling their obligation. By law, the Center for Combating Economic Crimes and Corruption may initiate (art.10) investigations to assess the conformity of the stated values and the real situation of the applicants. Only declarations of the Supreme Court of Justice, Auditing Court, Constitutional Court and General Prosecutor could be announced to the public (art.13)

### 39: Can citizens access the asset disclosure records of members of the national-level judiciary?

#### 39a *In law, citizens can access the asset disclosure records of members of the national-level judiciary.*

**Score:** YES

**References:** Art.13 of the Law No.1264-XVI of July 19, 2002, stipulates that asset disclosures of the chairs of the highest bodies of judiciary, Constitutional Court, Supreme Court of Justice, General Prosecutor could be posted annually in the local and national media. The legislation states that the total value of the properties is not confidential and can be announced to the public, while other types of information can be posted publicly only with special permission of the officials concerned (transparency of declarations - art.13).

**Peer Reviewer's Comments:** Beginning in 2009, excerpts from judges' income and property declarations must be published on the website of the Superior Council of Magistracy.

#### 39b *In practice, citizens can access judicial asset disclosure records within a reasonable time period.*

**Score:** 25

**References:** As a rule, reports on the income and properties declaration of officials appear to the public after the finalization of the process of receiving individual income tax reports (spring). However, there is no designed special time frame for disclosure, therefore timing is not something that can be accelerated by citizens. [\[LINK\]](#) [\[LINK\]](#) - Oamenii legii, corigenti la 'reformele anticoruptie', Obiectiv, No.6, mai 2008

#### 39c *In practice, citizens can access judicial asset disclosure records at a reasonable cost.*

**Score:** 25

**References:** There are no costs incurred to be informed on the income declarations presented by the judiciary. [\[LINK\]](#) - Declaratiile de avere vor fi in continuare cenzurate?, Centrul pentru combaterea crimelor economice si coruptiei 's-a suparat' pe Alianta Anticoruptie

#### **Social Scientist's Comments:**

The Central Control Commission made public in 2008 its data on the incomes declared by officials. Nevertheless, a large group of think tanks and public leaders remarked that the Commission, following the implementation of the law No 1264-XV of July 19, 2002, (law on declaration and control of the incomes and properties of state officials, judges and prosecutions, civil servants and other leadership officials,) has performed its duties in a bureaucratic and inefficient way: the data provided to the public is not trustworthy, conflicting with the minimum decent estimates; transparency of the authorities is almost absent; efficiency of the state control is minor and negligible. [\[LINK\]](#) [\[LINK\]](#) - Bufonada declaratiilor de avere



#### 40: Can the legislature provide input to the national budget?

##### **40a** *In law, the legislature can amend the budget.*

**Score:** YES

**References:** The Constitution stipulates the competence of the Parliament to approve the state budget and exercise its plenary oversight/control over its implementation (art.66).

##### **40b** *In practice, significant public expenditures require legislative approval.*

**Score:** 75

**References:** Annually, the Parliament adopts the Budget Law (September-November), which is the main financial instrument for budgetary spending. The Executive may use without the approval of the Parliament only the funds which are usually accumulated in its Reserve Fund (Regulation on the utilization of the funds from the Reserve Fund of the Government - No.1228 - XIII of June 27, 1997). All major amendments which are required by the Executive shall be discussed and approved by the Parliament no later than the end of the spring session (July).

##### **40c** *In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.*

**Score:** 25

**References:** The legislative does not have enough capacity to monitor the budget process. It usually uses the Auditing Chamber, which provides regular reports over the conformity of expenditures of the main public authorities with the adopted budgetary lines financed from the state budget. [\[LINK\]](#)

## 41: Can citizens access the national budgetary process?

**41a** *In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).*

**Score:** 25

**References:** At the adoption of the budgetary law for 2008, opposition parties in the Moldovan Parliament claimed they have been not consulted, and their suggestions were disregarded by the party in power. [\[ LINK \]](#) target="\_blank">[\[ LINK \]](#) Bugetul de stat a fost adoptat in pofida protestelor opozitiei in RM- <http://www.interlic.md/Economie/3143.html> [\[ LINK \]](#)

**41b** *In practice, citizens provide input at budget hearings.*

**Score:** 25

**References:** In practice, citizens may be invited to attend the hearings on budgetary process at the local level, but not at the national level. Due to the fact that the national TV and Radio have not devoted enough time to budgetary affairs, opposition claimed that the budget for 2008 was adopted almost in secret, and that the simple majority of votes needed to adopt the budget law proved to be satisfactory to the ruling party, which again avoided serious talks. Meanwhile, local authorities represented by the opposition leaders after the 2007 local elections were targeted by financial repressions from the government, which reduced their funding. For instance, for 2009, Chisinau Municipality will receive 40 million lei (US\$3,868) less than in the previous year, while for the other major city of Moldova, Balti, with a Communist mayor, the transfers have been increased - [\[ LINK \]](#) [\[ LINK \]](#) - Joaca de-a bugetul crieri, Nadin Luchian, pentru TIMPUL, [\[ LINK \]](#) -

**Social Scientist's Comments:** Due to the budget cuts for 2009, it could happen that Chisinau will not have resources for investment or for other kinds of spending, only for the strictly necessary expenses that make up 90 percent of the budget, the Mayor General of Chisinau Dorin Chirtoaca said, quoted by Info-Prim Neo. [\[ LINK \]](#)

**41c** *In practice, citizens can access itemized budget allocations.*

**Score:** 75

**References:** In practice, citizens can access itemized budget post-factum, after the adoption of the local or central budgets. They can find this information by accessing the official bulletin (Monitorul Oficial,) or the official websites of the governmental ministries and other agencies; [\[ LINK \]](#)

**Social Scientist's Comments:** The Government Decision no. 668 of June 19, 2006 stipulates the format of the websites elaborated by the Ministry of Informational Development, defining the notion of official web page as a set of official information in electronic form with means of interactive dialogue which are provided for citizens within the Internet network. It is worth underlying: "interactive dialogue," because this is the essence of web-pages. The official web page of the Presidency of the Republic of Moldova includes a range of data regarding the leadership of the presidency, data about its meetings, official

visits, etc. Shortcomings of this web site are its lack of data on the authority's legislative creations and programs and project descriptions. The site does not include contact information for employees who could facilitate the dialogue between public authority and citizens. The web site of the Parliament is richer in official information, providing sufficient data about the legislative work and a series of analytical reports. The presentation of information related to parliamentary factions, commissions, deputies as well as setting up an on-line dialog with the citizens would be welcome. [\[LINK\]](#)  
]

**42: Is there a separate legislative committee which provides oversight of public funds?**

**42** *In law, is there a separate legislative committee which provides oversight of public funds?*

**Score:** YES

**References:** A Special/Standing Committee on Budgetary and Finance Affairs exists in the Moldovan Parliament, with the general competence to prepare a professional drafting of the laws which affect the adopted budgetary laws, estimate new expenditures and track the implementation of the adopted laws and other normative acts (Regulation Nr.797 of April 2, 1996). Oversight over the public funds is implemented by the Auditing Court, as a separate chamber/authority (No.312 - XIII of Dec. 8, 1994), which provides annual reports to the Parliament.

### 43: Is the legislative committee overseeing the expenditure of public funds effective?

#### 43a *In practice, department heads regularly submit reports to this committee.*

**Score:** 25

**References:** In practice, regular hearings are convened by the Parliamentary committees, but they are not always satisfactory and constructive. Due to the fact that the ruling majority of the Parliament has its own mono-party Cabinet of ministers, it had all reasons to block any substantive hearing on the spending or failures due to the incumbent government. A change of government was possible in March/April 2008, with a new prime minister voted in April, but with the same oversight from the largest majority in the Parliament. Every Thursday, Parliament holds hearings. [\[LINK\]](#)

#### 43b *In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.*

**Score:** 25

**References:** Chairs of parliamentary committees were distributed after the 2005 parliamentary elections on the basis of the proportional number of mandates of the parties. The parliamentary fractions nominated their members in the standing committees, organized through the Regulation of the Parliament. Some more special committees have been organized lately in order to adopt or speed up the adoption of some critical laws. Usually, chairs of the strategic committees have a key-role in preparing the drafts, setting up the data for deliberations, or deciding over the special documentation hearings.

**Social Scientist's Comments:** Participation of the members of fractions in the parliamentary committees cannot be seen as equal and fair, as they are unequally assisted in their law-making work. See [\[LINK\]](#). At present, the parliamentary staff consists of 194 people, who are hired on the basis of four-year contracts. Besides the parliamentary staff working in the directorates mentioned above, there is a number of counselors. The chairman of Parliament has three counselors and both vice-chairmen have two counselors. Each of the permanent committees also disposes of some assistants and consultants who are employed to assist them. It is the competence of the Permanent Bureau to determine the structure and the legal status of the parliamentary staff, to draw up its budget, and to submit its proposals on these matters to Parliament for approval. It is the competence of the chairman of Parliament to appoint and discharge the members of the staff.

#### 43c *In practice, when necessary, this committee initiates independent investigations into financial irregularities.*

**Score:** 25

**References:** [\[LINK\]](#) [\[LINK\]](#) Republic of Moldova Action Plan As Capacity Test for the Moldovan Government: Screening the Implementation of the Plan's Economic Provisions-[\[LINK\]](#)

**Social Scientist's  
Comments:**

It is the Committee for Economic Policy, Budget and Finance, which has 13 members. In general, the parliamentary control over the government and its ministers is considered to be a problem. This problem is caused by various more technical reasons, such as lack of capacity, knowledge and experience, but also by political reasons, such as unwillingness from the side of the government to take this parliamentary function seriously. The increase of the influence of the president on day to day politics probably leads to a decrease of the influence of Parliament thereon. It is difficult for the government and its ministers to serve two masters, both the Parliament and the president of the Republic. In this respect, the Moldovan Constitution is quite clear: it is the Parliament to which the government and its members are accountable. The ordinary members of Parliament do not have sufficient professional support. The counselors of the permanent committees, who often do not meet the required standards, only serve the chairmen and vice-chairmen of these committees. The same applies to the various directorates and services of the parliamentary staff. They also mainly serve the leadership of Parliament and not its ordinary members, although these are entitled to have the assistance needed according to a great number of legal provisions, which the expert team has mentioned before. Due to a lack of finances, the members of Parliament do not have personal assistants. The various parliamentary groups have two to four political assistants at their disposal. As a result of this shortage of assistance, members of Parliament cannot function as effectively and efficiently as they should, neither in their role as legislators, nor in their controlling role over the government.

**44: Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?**

**44a** *In law, there are regulations requiring an impartial, independent and fairly managed civil service.*

**Score:** YES

**References:** Law on civil service, No.443-XIII of May 4, 1995. The law establishes the foundations and principles for a professional, objective and fairly managed corp of civil servants (art.4). With the recent reform of the central administration (December 2005), the government decided to change the existing law, and since January 2007 it prepared a draft of the new law on civil service.

**Social Scientist's Comments:** A new draft of the law is being prepared by the government, as a result of the central administration reform strategy launched in November 2005.

**44b** *In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.*

**Score:** YES

**References:** Art.11 of the Law stipulates a long list of restrictions and limitations that apply to civil servants in order to prevent nepotism, cronyism and clientèle-bound networks. In particular, the article provisions explicitly prohibit civil servants to be members of a political party, to run entrepreneurial activities (while in the civil service), to get salaries from private companies or joint ventures, to travel on the expenses paid by private individuals, etc.

**44c** *In law, there is an independent redress mechanism for the civil service.*

**Score:** YES

**References:** Art. 30 of the law (Civil Service Law No.443-XIII of May 4, 1995) stipulates the mechanism of redress when civil servants are illegally dismissed: they may apply in court, and when their innocence is proved they shall be re-established in their previous position, being paid for the whole period of dismissal.

**Social Scientist's Comments:** Civil Service is the target of various critics, who accuse it of being corrupt, inefficient, expensive. In 2002, the Parliament decided to assess the level of professional expertise and qualification of the staff hired at state positions, and the results were less than satisfactory. Since 2006, a special coordination unit has implemented a functional analysis of most of the executive agencies of the government in order to assess critical setbacks, and find out solutions to upgrade the effectiveness of the state bodies. Nevertheless, results are not yet strikingly evident from the implementation of the new strategy on reforming the central government administration. [LINK](#)

**44d** *In law, civil servants convicted of corruption are prohibited from future government employment.*

**Score:** YES

**References:**

Art 11 of the law - Civil Service Law (No.443-XIII of May 4, 1995) - prohibits recruitment of individuals who had been sentenced by a judiciary decision. A new code of ethics has been developed and a new agency for civil servants was established as a result of the central government reform strategy in 2007. [\[LINK\]](#) - [\[LINK\]](#) - [\[LINK\]](#) [\[LINK\]](#)

## 45: Is the law governing the administration and civil service effective?

### 45a *In practice, civil servants are protected from political interference.*

**Score:** 25

**References:** Political interference over civil servants is one of the most oppressing factors hindering the stability of the civil service in Moldova. [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) - 265k

**Social Scientist's Comments:** Independent reports show that the political influence over the civil service through the installation of the ruling CPM in 2001 led to massive reprisal amongst civil servants and replacements of the good governance criteria with criteria of political loyalty and favoritism in the advancement of state officials. [\[LINK\]](#)

### 45b *In practice, civil servants are appointed and evaluated according to professional criteria.*

**Score:** 25

**References:** Along the implementation of the new strategy of reforming central administration in Moldova, some steps indicate that changes are happening. A new draft law of the civil service is under preparation. After the finalization of the functional analysis on all executive agencies, ministries have started to address some of the critical aspects. A new law enshrining the ethical code of the civil service was adopted in 2008 (No.25-XVI din Feb. 22, 2008). Nevertheless, the organization of the civil service is, in practice, extremely confusing and non-structured. No relevant statistics exist at the national level as per civil servants, concerning their age, gender balance, wage compensations system, number of positions held, performances accomplished, languages, professional upgrade, etc. There is no single central administrative body in charge with civil service reform and human resource management in the government. This agency is promised as part of the on-going reform strategy in the central administration. It shall establish performance indicators in conducting a public job, professional standards and job manuals, although currently there is a huge gap between the reform and the responsibilities assigned to civil servants.

**Social Scientist's Comments:** Independent Report of the 13 NGOs, representatives of the civil society (following the report of the European Commission of Dec. 4, 2006, and completion of the two years after the signature of the Action Plan EU-RM).

### 45c *In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.*

**Score:** 25

**References:** The poor performance of central public administration is to a large extent determined by lack of an efficient and competitive incentive system for civil servants. In particular, the low pay level does not allow for attracting and retaining well-trained specialists in public administration, and create space for corruption in the system. Low salaries contribute to a high level of staff turnover that undermines the capacity building efforts made until



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now, in particular through foreign technical assistance projects. Also, the remuneration structure is not transparent enough: the system does not provide a clear-cut connection between performance and level of remuneration. To this effect, reforming the incentive system for civil servants is an important part of CPAR. The pay system reform was initiated by approval of the Law No. 355-XVI of Dec. 23, 2005 on Budget Sector Pay System for 2006-2010, which envisages a gradual increase of salaries for public sector staff, including civil servants. The real growth of civil servants' capacity will be ensured by the implementation of a comprehensive reform of the incentive system, which is not limited just to increased salaries. In the short term, the existing practices of classification and ranking of public officers will be put in line with a more efficient remuneration of public officers, by ensuring a connection between the level of remuneration, on the one hand, and the employees' efforts, skills, and performance, on the other hand. [\[LINK\]](#) [\[LINK\]](#)

**Social Scientist's  
Comments:**

The public civil service in Moldova is changing slowly, but painfully from a system too dependent on the ruling party's selective criteria of filling in the official positions with party staff. In other words, the civil service is not based on a normal rotating system which exists in industrialized countries. Rather, it heavily depends on who wins the election. Politicization is shadowed by an incredible lack of professional experience amongst civil servants, who used to follow political waves in order to get to the 'carrots' instead of cultivating their own capacities to perform. Every winning party appoints loyal servants, and the next coming party removes most of them to install its own people. Both then and now, a compromised politician who is close to the power may get a diplomatic job (which is very profitable), in spite of a poor or no diplomatic education.

**45d In practice, civil servants have clear job descriptions.**

**Score:**

**50**

**References:**

[\[LINK\]](#) - 30k - Sergiu Tatarov: Scopul reformei consta in instituirea unui sistem modern; [\[LINK\]](#) -- H O T A R Î R E pentru aprobarea Planului de acțiuni privind realizarea Strategiei de reformă a administrației publice centrale în anul 2008 nr. 59 din 25.01.2008 Monitorul Oficial nr.21-24/12 din 01.02.2008; Still, the government lacks a clear cut and effective human resource policy and has not studied the labor market - including public service - in order to streamline employment procedures. Public perception is that employment in the civil service is commonly used as a reward.

**Social Scientist's  
Comments:**

H O T A R Î R E pentru aprobarea Planului de acțiuni privind realizarea Strategiei de reformă a administrației publice centrale în anul 2008 nr. 59 din 25.01.2008, Monitorul Oficial nr.21-24/125 din 01.02.2008  
Civil servants have currently no detailed job description. Their work is generally conducted and planned on the basis of 'flying priorities' of the mid-level servants, who are fully subordinated to the political appointees approved by the ruling party. Central administration reform aims to build up efficient governance to the standards of the EU member-states. The reform calls for the re-organization of the central administration, optimization of the decision-making process and improvement of human resources management. The strategy is based on redefining competencies and functions of central executive institutions and

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reconfiguring the structure of the central executive institutions.

**45e *In practice, civil servant bonuses constitute only a small fraction of total pay.***

**Score:** 50

**References:** [\[LINK\]](#) - [\[LINK\]](#) - Sergiu Tatarov: Un serviciu public devine atractiv cinci intruneste mai multe tipuri de motivatii. [\[LINK\]](#) - În prezent, serviciul public din Republica Moldova nu dispune de un sistem al serviciului public corespunzator.

**Social Scientist's Comments:** According to art.4 of the Law on Salaries (No.847-XV of Feb.14, 2002), wages include the payroll (tariff salary of the function) and supplementary salary (bonuses, additional payments) and other incentives to the salary. This structure of the wage is generally applied to the civil servants' remuneration.

**45f *In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.***

**Score:** 0

**References:** [\[LINK\]](#) - As a consequence of the central government reform strategy, the government agreed to establish a special agency for the recruitment and management of civil servants. However, it continues to ignore the announcement of competitions for the free positions to be completed with new staff via open competition tenders. The topic of salary level is equally confusing. Due to the fact that civil servants receive many additional benefits, the payroll salary - although low - is generally several times higher than in other budgetary fields, and if the civil servants are not assessed and paid according to the results, discrepancies seem to be unpardonable. On the other hand, few people know how much a civil servant earns, because the information on pay is not made public. Selection of prospective candidates is usually made upon a short list of well-connected people, or of graduates of the governmental-controlled Academy of Public Administration. Often, the competitions serve only to the reconfirmation of the existing plethora of nepotist connections, despite the formal elements of the political regime, and in controversy with the EU-oriented reforms.

**Social Scientist's Comments:** [\[LINK\]](#) - 75k -Salariul mediu lunar în Republica Moldova este de 5,6 ori mai mic decât cel ... [\[LINK\]](#) [\[LINK\]](#)

**45g *In practice, the independent redress mechanism for the civil service is effective.***

**Score:** 25

**References:** [\[LINK\]](#)(2006)1\_Moldova\_EN.pdf - Projected measures include the sensible use of public finances; staff recruitment by competitive examination; separating the framing and promotion of policies from the supervision and provision of services; preventing conflicts of interest; the establishment of an appropriate system of remunerating public officials by introducing a so-called 'anti-corruptive threshold'; and the establishment of a proper assessment system. Until now, however, we cannot yet evaluate the existing system of redress mechanism, because of the large



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political influence on the selection and advancement of officials on political lines, lack of career officials, and unclear assignments prescribe to the hired personnel of the civil service. As a result, political influences and links are consistently penetrating the specific instruments through which civil servants are usually recruited or dismissed.

**Social Scientist's Comments:** [\[LINK\]](#) Interference from Politicians or Civil Servants Can Also Buy Legal Cover ...

**45h *In practice, in the past year, the government has paid civil servants on time.***

**Score:** 75

**References:** Wages/salaries are paid in time, with no major delays. The same can be said about local government officials, although they are separated from the civil service system of official positions. It must be stated, however, that wages and salaries in the public sector are very low, despite the fact that the government attempted to increase the level of salaries, but not on the basis of performances or accomplishments. The salary-increase followed the logic of the age-experience balance, which is very often an incentive against the young and talented people with brilliant education, who remain outside of the system of recruitment/or promotion. Some authors estimate that the salaries will keep to increase threefold by the end of 2009. Incomes of the population grow much faster than the GDP and labor efficiency.  
[http://www.pdc.ceu.hu/archive/00003739/01/moldova\\_2008\\_economy.p](http://www.pdc.ceu.hu/archive/00003739/01/moldova_2008_economy.p)

**Social Scientist's Comments:** The official site of the coordination group for the implementation of the strategy on poverty reduction and economic growth: [\[LINK\]](#)

**45i *In practice, civil servants convicted of corruption are prohibited from future government employment.***

**Score:** 75

**References:** Formally, Civil Service Law (No.443-XIII of May 4, 1995) This provision shall be the rule for all civil servants appointed or selected for public positions. In practice, political actors dispose to replace or move to other positions the civil servants that are suspected of corruption, or have been sued for various cases of corruption.

**Peer Reviewer's Comments:** Few civil servants have been convicted for corruption, but those who were accused of corruption or whose names were linked to corruption cases quite often continued to serve in other agencies within the system.

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**46: Are there regulations addressing conflicts of interest for civil servants?****46a** *In law, senior members of the civil service are required to file an asset disclosure form.***Score:** YES**References:** Law No.1264 - XV of July 19, 2008, The law stipulates the obligation of civil servants, together with other categories of state officials, judges, etc, to provide a declaration of the incomes and properties registered last year to a specialized body of the government -- the Central Control Commission, which is entitled to oversee and collect the declarations.**46b** *In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.***Score:** YES**References:** Law on the conflict of interests, No.16-XVI of Feb.15, 2008 is a new law regulating situations in which civil servants are obliged to recuse themselves from policy decisions if their personal interests are somehow in place. [\[LINK\]](#) [\[LINK\]](#)**46c** *In law, there are restrictions for civil servants entering the private sector after leaving the government.***Score:** NO**References:** Art. 11 of the Law on civil service imposes a list of restrictions for the occupation of civil service positions, such as: cases when applicants have limited legal capacity; have criminal records from previous irregularities committed; are not capable in medical terms to execute the functions. Other restrictions are related to the possible conflict of interests, due to the relatives working in the same department or institution. Civil servants are banned from maintaining two positions at the same time or cumulate other jobs in other public authorities, etc. Law of the civil service - No.443 - XIII of May 4, 1995**46d** *In law, there are regulations governing gifts and hospitality offered to civil servants.***Score:** YES**References:** According to art. 8 of the law on corruption and protectionism, No.900 of June 27, 1996, civil servants are discouraged to accept gifts or hospitality offered to them while they hold their official positions. The same law (art.10) stipulates the obligation to issue a declaration of income and properties when applying to a job in the civil service. Formally, this provision shall be the rule for all civil servants appointed or selected for public positions. In practice, political actors dispose to replace or move to other positions civil servants that are suspected of corruption, of have been sued for various cases of corruption.**Social Scientist's Comments:** [\[LINK\]](#) Media have largely reported about cases when expensive gifts have been provided to the state officials without any possibility for the judiciary to intervene. [\[LINK\]](#) Pre\_edintele face cadouri electorale din bani publici ...

**46e In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.**

**Score:** NO

**References:** Independent auditing is not stipulated by the new legislation on civil service conduct and organization in Moldova. Specialized bodies, indicated by the Law on conflict of interests, Law on preventing and combating corruption, may request additional data, after civil servants had presented their declaration of incomes, but they will be not substituted by independent auditing.

**Social Scientist's Comments:** [\[LINK\]](#) -- Declaraciile de avere vor fi în continuare cenzurate?

**46f In practice, the regulations restricting post-government private sector employment for civil servants are effective.**

**Score:** 25

**References:** There is no explicit and formal ban on civil servants willing to make business after their official tenure is over. No such provisions apply to politicians, judges, prosecutors or civil servants, even after the launch of the central governmental reform in 2005, and the adoption of a new Civil Service Law (No.443-XIII of May 4, 1995). Many former ministers have been replaced by others during the same Cabinet of Ministers, when they were delegated to take the lead in some larger companies, or enterprises. Since 2001 till 2007, over 26 ministers have been replaced in the same Cabinet of Ministers (16 ministers in total). Most ministers were re-located to business. No explanation for the reason to replace a minister has been every provided, and the replacements were made by the president, and not by the Parliament of Moldova, which had confirmed the government. - Ziarul de Garda, Nr. 191 (7 august 2008)

**Social Scientist's Comments:** [\[LINK\]](#)-jucariile-preferate-ale-presedintelui [\[LINK\]](#) - 30k

**46g In practice, the regulations governing gifts and hospitality offered to civil servants are effective.**

**Score:** 25

**References:** The legislation prohibiting hospitality gifts to officials is not properly implemented, and the blame fails on the specialized agencies. [\[LINK\]](#); fi introdus ilegal în Republica Moldova doua pistoale primite cadou de la demnitari strini, ... [\[LINK\]](#) [\[LINK\]](#) -... Cicinov scrie c "nici când n-am primit ca cadou arm de la pre\_edintele crii". ...

**46h In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.**

**Score:** 50

**References:** The regulations on conflict of interests have been adopted in 2008, therefore it is quite difficult to evaluate their effectiveness at this moment. Law No.16-XVI of Feb. 15, 2008. New regulations shall educate and spread out a new culture of civil service.

**Social Scientist's Comments:** [\[LINK\]](#) -DEMNITARIII ÎMI TINUIESC AVEREA. [ 2008-07-25 [\[LINK\]](#) ] - 100 cele mai presante probleme ale Republicii Moldova în 2007

**46i** *In practice, civil service asset disclosures are audited.*

**Score:** 0

**References:** Law on Declarations and Control of Incomes and Estate Properties (no.1264-XV of July 19, 2002) Law on Access to Information (no.982-XIV of May 11, 2000) Independent auditing of the governmental declarations is not a regular practice. By law, civil servants and state officials MAY if they want to present to the public the overall amount of their incomes or properties, but the legislation does not specifically requires that. Income declarations shall be posted on a web page of the ministries or state agencies, in a transparent and systematic order. Disclosure of the assets and incomes is equally regulated by the law.

**Social Scientist's Comments:** [\[LINK\]](#) - [\[LINK\]](#) Avere la Vedere În perioada 22-28 februarie [\[LINK\]](#) Ce ascund demnitarii moldoveni atunci cand refuza sa-si faca publice declaratiile pe avere?

**47: Can citizens access the asset disclosure records of senior civil servants?****47a In law, citizens can access the asset disclosure records of senior civil servants.****Score:** YES

**References:** Law on the declaration and control over the revenues and properties of the state officials, judges, prosecutors, civil servants and other persons with official positions, No.1264 - XV of July 19, 2002, Art.13 It stipulates the transparency of the declarations, which are to be made publicly available on the annual basis via mass media and websites of the concerned authorities. The law does not consider as confidential the following items of information: total value of the declared properties, list of all goods which are the object of declaration.

**Social Scientist's Comments:** [\[LINK\]](#) -- 2008-07-28. Ce ascund demnitarii moldoveni atunci când refuz s-i fac publice declaraciile pe avere?

Disclosure acts are rarely used, and media have to fight hard in order to depict declarations. Politicians or civil servants usually sue journalists when they publish their reports for using 'personal information'. Due to the fact that these reports can be seen by a non-independent judiciary in Moldova as 'information of personal use', media often pay painful fines, and are generally cautious to go to court against top-level officials, who are politically and judiciary advantaged. Since January 2008, a large campaign 'Avere la vedere' has been staged by API and tAnti-Corruption Alliance of Moldova, aiming to publish and present the income declarations of the officials.

**47b In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.****Score:** 50

**References:** Delays in releasing information are common feature. Normally, it takes more than a month for a journalist to obtain information on assets owned by civil servants. To begin with, regular people do not know about the Law on Access to Information. When they know about it, they are highly skeptical about the outcome, and choose to save "time and nerves". Public trust in civil service is significantly low, as it is seen as a corrupt environment.

**Social Scientist's Comments:** [\[LINK\]](#) Într-unul din numerele trecute ale JURNALULUI am fcut o comparacie dintre sistemul declaraciilor de avere din R. Moldova i cel din România, [\[LINK\]](#) -- Actualul sistem de prezentare i verificare a declaraciilor pe avere este unul imperfect. [\[LINK\]](#) [\[LINK\]](#)

**47c In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.****Score:** 0

**References:** Center for Investigative Journalism - [\[LINK\]](#); International Transparency - Moldova: [\[LINK\]](#)

**Social Scientist's  
Comments:**

There is no such practice that information which is banned by civil servants can be acquired or purchased at a high price. Only confidential information can be accessed by media and used in investigative reporting.

**48: Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?**

**48a** *In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.*

**Score:** NO

**References:** Even the recently adopted regulations do not refer to the protection from recrimination cases or other negative consequences against those who would report cases of corruption, graft, abuse of power, etc. This is why perhaps nobody is reporting to the specialized services, such as the Central Control Commission and Center for Combating Economic Crimes and Corruption.

**48b** *In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.*

**Score:** 0

**References:** There is no such practice, and perhaps the only civil servants or officials is responsible for supervising these cases are the senior officials. Communication is low and inappropriate, while selection criteria proves that political bias is the strongest factor for the selection of civil servants. Important efforts have been recently made to increase the standards and set the tone for a new culture of the civil service. For instance, several training workshops and conferences, such as those organized by SIGMA and OECD ( Improvement of Civil Service through an Efficient HR Management held in Chisinau on March 28-29, 2008) were centered on the need to improve the HR management in public administration for ensuring a democratic and efficient governance serving the interests of the citizens. [\[LINK\]](#)

**Social Scientist's Comments:** This practice is not yet in place.

**48c** *In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.*

**Score:** NO

**References:** There are no such cases in the private sector. There are several red-line communication channels for reporting cases of corruption to the bodies empowered with such competencies (e.g. the Center for Preventing and Combating Economic Crimes and Corruption.) Media launched several investigations to research into perceptions of or real cases of corruption, thus creating a pressure on reforming the civil service.

**48d** *In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.*

**Score:** 0

**References:** The legislation does not secure recrimination for those who report cases of corruption in the public sector, and therefore, some could report about their available information or evidence on the basis of anonymity. [\[LINK\]](#)

**Social Scientist's Comments:** [\[LINK\]](#) - Nu sunt timpuri atat de grele incat sa nu poti fi cinstit - Interviu cu Vladimir Balan, locotenentcolonel, seful Aparatului directorului Centrului pentru Combaterea Crimelor Economice si Coruptiei (CCCEC) [\[LINK\]](#) - CORUPȚIA ÎN MOLDOVA: IMPACTUL MACROECONOMIC

**49: Is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?**

**49** *In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?*

**Score:** YES

**References:** Law on the prevention and combating corruption, No.90-XVI of April 25, 2008, arts. 7 and 9

**Social Scientist's Comments:** [\[LINK\]](#) Contextul economic \_i institucional al corupciei [\[LINK\]](#) - Nu sunt timpuri atat de grele incat sa nu poti fi cinstitInterviu cu Vladimir Balan, locotenentcolonel, seful Aparatului directorului Centrului pentru Combaterea Crimelor Economice si Coruptiei (CCCEC)

**50: In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?**

**50a In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.**

**Score:** 75

**References:** Law on the Center for Combating Economic Crimes and Corruption, No.1104-XV of June 6, 2002 - [\[LINK\]](#)

**Social Scientist's Comments:** The director of the Center has reported positive results in the preventing and curbing corruption cases during the past year. Pe msura implementrii Strategiei nationale de prevenire \_i combatere a corupciei cara noastr a înregistrat, în ultimii ani, anumite progrese în domeniul prevenirii \_i combaterii corupciei, a opinat vicedirectorul CCCEC, domnul Vitalie Verebceanu. Obcinerea acestor rezultate a fost posibil \_i în condiciile asistentei acordate de organisme internationale, donatorii externi.

**Peer Reviewer's Comments:** The agency has enough personnel, but it lacks the competence to follow a case of corruption. The center puts together a case and then passes it to the prosecutor's office.

**50b In practice, the internal reporting mechanism for public sector corruption receives regular funding.**

**Score:** 50

**References:** The government initiated in 2007 procedures to improve internal control systems of the public organizations, and embraced the PIFC concept under the World Bank's Public Financial Management Project. The Ministry of Finance has started to draft a new comprehensive public internal financial control policy paper and to set up adequate institutional arrangements for the co-ordination and harmonization of public internal control and internal audit. [\[LINK\]](#). Decision of the Auditing court No.82 of Nov. 29, 2007 on the approval of National Standards for the Internal Auditing in Moldova <http://www.mf.gov.md/ro/delurproject/ccecsp/dpr/>

**Social Scientist's Comments:** Implementation of the new regulations on financial internal auditing is one of the public sector reform priorities in Moldova. it goes without saying that capabilities to implement such instruments are resisted by low commitment to reform and lack of resources.

**50c In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.**

**Score:** 50

**References:** Internal auditing is a new form of ensuring accountability and transparency for the public sector organizations. As a priority of the national program of the government, it was implemented in 2007, and now it becomes an usual feature of several local and central authorities, agencies. [\[LINK\]](#) This goes hand in hand with the reformation of the main functions of the National Auditing Chamber, which converts its oversight and revision functions into public auditing, defines standards and sets up benchmarks of management for the public sector. [\[LINK\]](#)

**Social Scientist's Comments:** [\[LINK\]](#)

**50d** *In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.*

**Score:** 25

**References:** Implementation of the regular internal auditing activities is mentioned as an effective practice by the government in its Report of Implementation presented in 2007 to the European Commission within the framework of the EU-RM Action Plan. See: [\[LINK\]](#) Ministry of Finance has elaborated the Ethical Code for the Internal Auditors: [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) - 28k

**51: Is the public procurement process effective?**

**51a** *In law, there are regulations addressing conflicts of interest for public procurement officials.*

**Score:** YES

**References:** Law on the conflict of interests, No.16-XVI of Feb. 15, 2008

**51b** *In law, there is mandatory professional training for public procurement officials.*

**Score:** NO

**References:** A new law on public acquisitions was adopted in 2007 (nr. 96-XVI of April 13, 2007). The National Procurement Agency was created in 1998 and every state budget institution has a Procurement Working Group to carry out its purchasing function. [\[LINK\]](#) Consequently, the procurement activities are decentralized, while the monitoring and control over purchasing decisions is centralized under the National Procurement Agency. [\[LINK\]](#)

**Social Scientist's Comments:** The National Procurement Agency encounters difficulties in ensuring compliance with the regulations by local officials, who need convincing of the need for procurement procedures, and support and training to carry them out. The web-site of the Agency for public acquisitions and material resources is not well maintained and designed, with lots of missing information and updates. Generally, the Agency does not convene upon training for public procurement officials.

**51c** *In practice, the conflicts of interest regulations for public procurement officials are enforced.*

**Score:** 50

**References:** Media information on public acquisitions in Moldova is scarce and inconclusive. The existing Agency, which is subordinated to the government, regularly issues a bulletin with various tender announcements. The content is placed online as well. [\[LINK\]](#)

**Social Scientist's Comments:** TI-Moldova is implementing an evaluation of the public acquisition activities in Chisinau, saying that the private sector makes 34-58 percent of their profits from unofficial taxes and bribes. [\[LINK\]](#)

**51d** *In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.*

**Score:** YES

**References:** Public procurement officials are not explicitly listed by the Law on preventing and curbing corruption, No.900 of June 27, 1996, although they can be inferred from the list of public officials of the local territorial offices of the government, head of departments and state services, etc. (art.3). However, with the aim to ensure efficiency, objectivity and transparency of the public acquisitions of goods, works and services, and oversight in the implementation of the legislation (Law nr.96-XVI of April 13, 2007 on public acquisitions - Monitorul Oficial al Republicii Moldova, 2007, nr. 107-111,

art. 470), the government established a national Commission for the control of public acquisitions (nr. 648 of May 29, 2008).

**51e In law, major procurements require competitive bidding.**

**Score:** YES

**References:** By law (No.96 - XVI of April 13, 2007), public acquisitions procedures are applied for activities which exceed the value of 20.000 lei (US\$1,940), and works and services over 25.000 lei (US\$2,427), etc. Art. 3 refers to the calculation of the value of services, goods or works, and art. 4 stipulates the exceptions. In most cases, the Agency for Material Resources, Public Acquisitions and Humanitarian Aid is the central administrative authority, with the task to regulate on behalf of the state, oversee, control and coordinate acquisitions undertaken in the public sphere. The Agency is an autonomous entity, with specific competencies as defined in the art. 9.

**51f In law, strict formal requirements limit the extent of sole sourcing.**

**Score:** YES

**References:** Art.53 of the Law defines the specific cases in which public acquisitions can be made from a single source, but generally competitive offers are required in order to ensure the credibility of the process and competitive prices. When the procedure is not fully in conformity with the existing legislation, the Agency may cancel the acquisition procedure (art. 59).

**51g In law, unsuccessful bidders can instigate an official review of procurement decisions.**

**Score:** YES

**References:** Art.71 of the Law (Chapter IX) provides a right to every economic operator, which believes that some rights have been infringed on by the regulatory agency, to appeal in a court of justice to contest the decision or the applied procedure, according to the legislation. Within 10 days after the tender is contested, applicants may fill in the log to a court at the Agency, which is in charge with the examination and resolution of the claims received from the operators (art. 73).

**51h In law, unsuccessful bidders can challenge procurement decisions in a court of law.**

**Score:** YES

**References:** Art.71 of the Law on public acquisitions (2007) can be used by economic operators (companies) to contest a decision or the implementation of a process by another operator with the Agency. A specific procedure to log in the claim to the Agency is well defined by art. 72: must be submitted in writing, within 10 days, with full name of the operators. The Agency decides whether to admit or reject the claim, to require a reevaluation, or to take other measures.

**51i In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.**

**Score:** YES

**References:** The Agency for Public Acquisitions selects the candidates for its tenders from the list of qualified economic operators (art.17), which receive an official approval, allowing their access to the procedures. The list falls into the responsibility of the Agency. Another list, regularly updated by the Agency, contains certain interdictions for economic operators (art.18), which include economic agents who committed some irregularities, who are thus prohibited to attend public acquisition activities for three years.

**51j** *In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.*

**Score:** 50

**References:** The Agency claims that it has a list with the companies which were prohibited to participate in the tendering procedures in 2007- [\[LINK\]](#) - but, the web-site does not make it explicit which companies are currently banned from bidding. The following is a list of the qualified companies: [\[LINK\]](#).

**Social Scientist's Comments:** The agency put more efforts in 2007 to train its hired staff, and educate new standards in public acquisitions, but it also noted that the interest of the private sector is still low, with many agencies trying to avoid the procedure for public tendering.[\[LINK\]](#)

**52: Can citizens access the public procurement process?****52a In law, citizens can access public procurement regulations.****Score: NO**

**References:** Art. 64 of the Law on Public Acquisitions clearly states that the Agency consider the offers to tender confidentially, and that negotiations have a strict confidential nature. Neither part of the participating agents may divulge to a third party, without its consent, information on the questions raised during negotiations. But, public opinion may see the information by filling up a special request form to the Agency, may consult the we-bsite, or process the data of the regular bulletin on public acquisitions, which is edited by the Agency - [\[LINK\]](#)

**52b In law, the government is required to publicly announce the results of procurement decisions.****Score: YES**

**References:** Art. 6 of the Law defines the principles on the basis of which public acquisitions are being made in Moldova, including: effective use of public finances and minimization of the risks to the contracting authorities, transparency of the public acquisitions, ensuring loyal competition, protection of environment and sustainable development through public acquisitions.

**52c In practice, citizens can access public procurement regulations within a reasonable time period.****Score: 25**

**References:** In practice, public authorities do not report in time about their purchases, and sometimes even try to avoid the Agency (Raportul privind activitatea Agenciei Rezerve Materiale, Achizicii Publice \_i Ajutoare Umanitare, desf\_urat în primul semestru al anului 2007 în domeniul achiziciilor publice). Tender results can be accessed from the Agency bulletin: [\[LINK\]](#). Media reports - [\[LINK\]](#) show that corruption is still rooted in the management style of some officials.

**52d In practice, citizens can access public procurement regulations at a reasonable cost.****Score: 75**

**References:** The Agency issues a weekly bulletin on public acquisitions at a reasonable cost, which can be ordered for subscription, or can be accessed free of charge from the official web-site: [\[LINK\]](#)

**52e In practice, major public procurements are effectively advertised.****Score: 75**

**References:** In practice, the Agency tries to advertise the public acquisitions on several channels: internet, newsletters, as well as regular announcements in some economic and business journals, such as: Eco, Moldova Suverana, Logos Press, etc. It is unclear how the Agency decides upon the selection of economic magazines for advertisements, as the costs are quite high.

**Social Scientist's Comments:** Media and watchdog organizations still report lots of cases in which public acquisition procedures are not appropriately conducted, serving as a screen wall to the same big deals of state officials: [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#)

**52f** *In practice, citizens can access the results of major public procurement bids.*

**Score:** 50

**References:** By law, the system of public acquisitions, its organization and management of public finances shall be transparent and equal to all its participants (art.8 of the law on preventing and curbing corruption - No.90 - XVI of April 25, 2008). Citizens can access public procurement results by purchasing the weekly bulletin of the Agency, or by accessing the web-site on which the same information is posted. One shall observe that several institutions have elaborated their own instruments to fight corruption and ensure transparent governance without expecting to brake the law. For instance, the Technical University of Moldova has announced an ambitious plan of actions to fight corruption through transparent acquisitions, and other universities followed the example.

**Social Scientist's Comments:** TI-Moldova reports show that business entities spend 34-58 percent more on public acquisitions because of unofficial taxes and bribes. A specific report on measuring side effects of the existing system of public acquisitions in the Chisinau Municipality is provided on their website - [\[LINK\]](#).

**53: Is the privatization process effective?****53a *In law, all businesses are eligible to compete for privatized state assets.*****Score:** YES

**References:** Law on privatization (No.627 - XII of July 4, 1991) was one of the first laws adopted after the independence of Moldova from USSR. By law, all legal and physical persons, excepting public authorities, state and municipal enterprises, institutions financed from the state budget or local budgets, legal and physical entities residing abroad, with exceptions set up by the legislation may participate in the process of privatization, without discrimination.

**53b *In law, there are regulations addressing conflicts of interest for government officials involved in privatization.*****Score:** YES

**References:** Art. 2 of the Law on privatization stipulates the principle of equality of rights to all participants. The Law on combating corruption and protectionism from June 27, 1996, specifies the notion of protectionism as a particular type of conflict-of-interest, through an action or inaction of the decision factor regarding protection in solving certain problems of interested persons, through favorable attitudes towards them, irrespective the reasons. Art. 190 of the Conflict of Interest of Civil Code states:(1) A non-commercial organization should avoid in its activity a conflict of interest. (2) It is considered that a conflict of interest exists in the case of signing a legal act related to patrimony of a non-commercial organization between this organization and an interested person. Art. 85 of Law on joint stock companies (nr. 1134) states the notion of conflict-of-interest transaction: (1) A conflict-of-interest is a transaction or more interlinked transactions involving persons who have the right to participate in the decision-making of such transactions. Interested parties will present at least once per year written declarations, which will help trace conflict-of-interest transactions back in time. Finally, the Law on public service nr. 443-XIII, from May 4, 1995, (which will be replaced by a new Law soon) states that private interest consists of any personal advantage derived by the public functionary for him/herself or his/her family; relatives, friends or other physical or legal persons or organizations that s/he had business or other type of relations with, that can affect his/her impartiality and integrity within the exertion of the public function.

**53c *In practice, conflicts of interest regulations for government officials involved in privatization are enforced.*****Score:** 50

**References:** A Law on conflict of interests was adopted in Moldova only in 2008 (No.16-XVI of Feb. 16, 2008). In addition to the law, civil servants are subject to various forms of limitations in their activity in order to avoid conflict of interests or unhealthy interests. The law on civil service (1995) lays out some ethic norms: not using the public function for personal interest; acting impartially; avoiding situations which might initiate a potential conflict of interest. The Law on public service from May 4, 1995, nr. 443-XIII, Art. 11 states the following restrictions: (1) A public function

cannot be held by a person who: a) is considered by a court decisions incapable or with limited capability; b) has previous convictions resulted from deliberate offenses, which were not canceled in ways established by law; c) is not medically able to exert a function (this must be certified by a medical certificate); (2) A public functionary can not hold a function in subordination or under the control of a function held in the same public authority by his/he direct relatives (parents, brothers, sisters, children) or relatives-in law (husband, wife, parents, brothers and sisters-in-law). In case when these restrictions are broken, the public functionary is transferred to an institution which would exclude such subordination, but if the transfer is impossible s/he is fired on the decision of the hierarchically superior body. Civil servants cannot hold two positions at the same time or cumulate other work, through a contract or other agreement, at foreign or mixed organizations, enterprises, institutions; organizations with any kind of juridical functions; civil associations, etc., the activity of which is controlled, subordinated or due to the competence of the authority where s/he is hired, with the exception of scientific, didactic, creative and representing the state in economic societies activities.

**Social Scientist's  
Comments:**

There are several limitations in the Law on government, Law on the statute of MPs, Law on the statute of judges. For instance, in the Law on government from May 31, 1990, nr. 64-XII:, Art. 29, a minister does not have the right to: 1) hold any other function in bodies of central public authorities; 2) become involved in commercial unities; 3) practice business activities personally or through third parties; 4) practice another remunerated position, except for scientific and pedagogic activities. The Law on Prosecutor's Office from March 14, 2003, no. 118-XV:, Art. 23, states that "The function of a prosecutor is incompatible with any public or private function, except positions related to scientific or didactic activities." Nevertheless, media report that some public officials have personal companies and an astonishing number of relatives as business partners. [LINK](#) - DEMNITARIII ISI TAINUIESC AVEREA COMUNICAT DE PRES; [LINK](#)

**54: Can citizens access the terms and conditions of privatization bids?****54a In law, citizens can access privatization regulations.****Score:** YES

**References:** By law, privatization shall be conducted in a transparent manner. A State Department has provided the basis for the legal process, and the institutional implementation of the privatization in Moldova since 1991. This included publication of some bulletins with privatization results, and the set-up of a web-site for the enterprises enrolled in the privatization process. According to the legislation in force, state agencies are regularly controlled by the Auditing Chamber. In 2008, the Agency for Public Property announced the privatization of five average enterprises, estimated at over 695 million lei (US\$67,475.) [\[LINK\]](#) [\[LINK\]](#) -

**Social Scientist's Comments:** Economists claim that after 2001, with the Communists in power, foreign donors stepped back and the political will towards privatization withered. Even today, the largest fields for privatization stagnate, and there is no intention to privatize the largest energy-production domains or Moldtelecom. [\[LINK\]](#) - 20k

**54b In practice, privatizations are effectively advertised.****Score:** 75

**References:** The Agency for Public Property advertises its tenders for privatization via national and local media. Media closely monitor the announcements and large privatization activities in Moldova.

**Social Scientist's Comments:** Although earlier praised for its privatization results, Moldova now counts privatization as one of the lost battles of the last decade. The government banned the privatization of the energy and communication fields, thus prohibiting competitive investments. [\[LINK\]](#) [\[LINK\]](#) - 22k

**54c In law, the government is required to publicly announce the results of privatization decisions.****Score:** YES

**References:** The State Department of Privatization, established in 1991, has acted on the basis of Regulation No.737-XII of Oct. 9, 1991. Art. 4 of the regulation stipulates that the department is responsible for large advertising of its activities. In 2007, an Agency of Public Property was established, as a subordinate entity to the Ministry of Economy and Trade. [\[LINK\]](#) The Agency has a quite dynamic web-site, where it publishes announcements for various types of local and national tenders for the privatization of state assets - [\[LINK\]](#). It organizes the tenders according to the existing laws - [\[LINK\]](#).

**54d In practice, citizens can access privatization regulations within a reasonable time period.****Score:** 75

**References:** In practice, those who are interested in bidding for privatization tenders may access the lists of enterprises from various sources: Monitorul Oficial and the web-site of the Agency for Public Property. On some special occasions, the Agency extends invitations to participate in the tendering process on a case by case basis - [\[LINK\]](#) - The government, in its position as majority shareholder, is seeking to bring to market Banca de Economii. To this end, the government's intention is to privatize its shares in the Banca de Economii to a strategic investor as a means of strengthening the management of the bank, bringing new capital to the market and increasing competition in the banking system of the Republic of Moldova.

**54e** *In practice, citizens can access privatization regulations at a reasonable cost.*

**Score:** 25

**References:** Agencies that regulate the privatization process practice some prohibitive costs for distributing information packages for special cases of privatization. Citizens can access the results or some information related to the organization of tenders from mass media or official web-sites. [\[LINK\]](#) or [\[LINK\]](#)

**Social Scientist's Comments:** [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) -

**55: Is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?**

**55** *In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?*

**Score:** YES

**References:** Law on parliamentary attorneys No.1349-XIII of Oct. 17, 1997. [\[LINK\]](#)

**56: Is the national ombudsman effective?****56a** *In law, the ombudsman is protected from political interference.***Score:** YES**References:** By law, the ombudsman (avocati parlamentari) is protected from political interference.**56b** *In practice, the ombudsman is protected from political interference.***Score:** 50**References:** In practice, the ombudsman has independence in assessing cases of human rights infringements. However, he can be penalized by political forces in other ways, i.e. they may not prolong his mandate for the second term (one mandate is for five years, and the law bans more than two consecutive mandates). The ombudsman cannot hold other public or political elective positions, and for the duration of the mandate shall suspend all activities, except his didactic functions. Art.12 defines the ombudsman as being 'inviolable' in terms of housing, workplace, transportation means and communication tools. He cannot be arrested, detained or penalized, except in cases of grave infractions.**56c** *In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.***Score:** 25**References:** Art. 35 of the Law stipulates that the Center for Human Rights is represented by one of the Ombudsmen, at the proposal of the chairman of Parliament. Candidates for the Ombudsman position are suggested by the president. (art.5) At the end of each year, the Center will provide to the Parliament a report on the situation of human rights in the country.**Social Scientist's Comments:** During 2002-2004, reports presented by the Center and the Ombudsmen prompted angry reactions from the Communist MPs, and accordingly, they voted against a second mandate for some of the members. See: [\[LINK 1\]](#) - editia nr. 761, 19 Septembrie 2008 Se trgneaz numirea noilor avocaci parlamentari, also: [\[LINK\]](#) - Este necesara transparenta in procesul de numire a avocatilor parlamentari;**56d** *In practice, the ombudsman agency (or agencies) has a professional, full-time staff.***Score:** 75**References:** The CHRM is an institution similar to the European and International Ombudsman Institutions, created in conformity with the Law on Parliamentary Advocates no. 1349-XIII from Oct. 17, 1997. It is an independent state institution composed of three ombudsmen appointed by the Parliament; and other staff members who provide organizational, informing, analytical, consultative assistance to the ombudsmen, in carrying out their mission. The structure and financing of the Center for Human Rights (ombudsmen) are defined

by a special regulation, and is being approved by the Parliament - [\[LINK\]](#). The ombudsmen shall be guided by the constitution, the Law on Ombudsmen, other national laws, as well as by the international treaties to which the Republic of Moldova is a party. They are guided by the principles of the rule of law and transparency, social equity, democracy, humanism, accessibility in accordance with their conscience. Ombudsmen are independent of the deputies of the Parliament of the Republic of Moldova, the president of the Republic of Moldova, central and local public authorities and officials at all levels. Ombudsmen are assisted by a technical staff, which collects complaints from the citizens, or prepare necessary notes to address the complaints, at the national headquarter in Chisinau, as well as in three regional branch offices, throughout the country.

**Social Scientist's Comments:**

Hearings take place according to a schedule. Complainants can address daily, excepting on weekends and days of rest, from 9.00 to 17.00 (lunchtime from 12.00 to 13.00), at the Center's address: 16 Sfatul Tarii Str. Ombudsmen receive complaints no less than three times per month. On other days, the complainants are received in audience by the lawyers of the Center, according to the established schedule. Examination of complaints takes place at the CHRM branch offices from Balti, Cahul and Comrat.

**Peer Reviewer's Comments:** Ombudsman staff is underpaid, and staff turnover is high. Few staff members have substantial experience in human rights areas. The assessment is based on Resource Center for Human Rights (CReDO), [www.credo.md](http://www.credo.md) specialised reports.

**56e In practice, agency appointments support the independence of the ombudsman agency (or agencies).**

**Score:** 25

**References:** [\[LINK\]](#) - editia nr. 761, 19 Septembrie 2008 Se trgneaz numirea noilor avocaci parlamentari - is th In practice, media report that appointments of ombudsmen are not aiming to strengthen independence, but dependence on political authorities, which do not want to receive annual critical reports on human rights infringements. [\[LINK\]](#) - [\[LINK\]](#) [\[LINK\]](#)

**Social Scientist's Comments:**

On Aug. 12, 2008, one of the ombudsmen was found shot in his office. No one explained this situation. [\[LINK\]](#) .

**Peer Reviewer's Comments:** A group of human rights NGOs, led by Resource Center for Human Rights (CReDO) issued several statements on the failure to comply with the procedures for the appointments of the ombudsman. Professional groups are not involved in the appointment process, so in substance the ombudsmen have low professional reputation on human rights.  
<http://www.credo.md/pagini/stiri.php?limba=rom&id=354>

**56f In practice, the ombudsman agency (or agencies) receives regular funding.**

**Score:** 50

**References:** Financing of the Center for Human Rights is provided regularly, without delays, through an amendment of Law No.1349-XII of Oct. 17, 1997 (special regulations voted through Law No.56 - XVI of March 20, 2008). According to the law, an adviser to the ombudsman receives a salary of 1,650 lei (US\$160), a head of service 1,650 lei, a principal specialist 1,200 lei (US\$116). However, the wages are considered quite low and unattractive since the average salary per economy is higher than the reported wages for the personnel of the Centre.

**Peer Reviewer's Comments:** Financing for the Ombudsman office is inadequate, specifically, the costs related to staff and work in visiting places and institutions. The office has only two cars available.

**56g *In practice, the ombudsman agency (or agencies) makes publicly available reports.***

**Score:** 100

**References:** Ombudsmen provide regular reports to the Parliament (once per year). They have the freedom to comment, provide assessments verbatim to the press. Reports are available on the net: [\[LINK\]](#). In addition to regular reports, ombudsmen notify public authorities in order to satisfy or respond to the complaints from citizens - [\[LINK\]](#).

**56h *In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.***

**Score:** 75

**References:** Art.27 of the Law entitles the ombudsman to log appeals in the court of justice to defend the interests of citizens who complained about infringed rights, if he finds that the rights of the applicants were in fact affected. Ombudsmen may also intervene to the public authorities responsible for the committed irregularities, or initiate an administrative case against the officials who had committed contraventions (art.174/19 of the Code on Administrative Contraventions). the legislation allows Ombudsmen to initiate investigations, but not not enforce the law.

**Social Scientist's Comments:** [\[LINK\]](#) - Avocatii parlamentari atesta incalcari ale drepturilor omului in Republica Moldova <http://www.hr.un.md/news/51> - Situatia privind respectarea drepturilor omului in R. Moldova nu a evoluat spre ... publica centrala si locala fata de sesizarile avocailor parlamentari [\[LINK\]](#) - Numirea avocailor parlamentari se tergiverseaza intentionat [Moldova.org].

**Peer Reviewer's Comments:** The ombudsman office is weak in terms of enforcing some decisions or in pursuing with investigations, and few policy changes are made as a result of investigations. The office's capacities are limited to the political will and interests around the issue raised.

**Peer Reviewer's Comments:** Ombudsmen frequently cherry-pick cases for investigation and rarely issue public statements on their findings.

**56i** *In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.*

**Score:** 0

**References:** By law, ombudsmen cannot impose penalties/fines to the agencies that committed irregularities. They may investigate the complaints and log appeals to the respective courts of justice, attack administrative authorities, appeal to the Constitutional Court and report to the Parliament the human rights situation.

**Social Scientist's Comments:** [\[ LINK \]](#)... [\[ LINK \]](#) - PLDM a depus la CEDO cerere împotriva guvernului Moldovei pe faptul discriminării ... și incertitudinea privind candidaturile avocacilor parlamentari. ... [\[ LINK \]](#) Societatea civilă cere transparență în selectarea și numirea avocacilor parlamentari ... este una din revelațiile Diviziei Naționale de fotbal a R. Moldova, ...

**56j** *In practice, the government acts on the findings of the ombudsman agency (or agencies).*

**Score:** 25

**References:** Ombudsmen regularly appeal for situation which reflect in his/her opinion infringements of some rights or liberties - See opinions of Mr Perevoznic [\[ LINK \]](#) In 2007, the Center for Human Rights appealed to the Parliament with the request to create a consultative council with the civil society. It was established in January 2008.

**Social Scientist's Comments:** [\[ LINK \]](#) - when reports presented by ombudsmen were critical, blaming the government and the legislative for laws and normative acts adopted against the existing constitutional rights of the citizens, the ruling party leaders tried to subdue the center by blackmailing it with financing leverage, or by delaying the procedure of confirming the mandate for some ombudsmen. Președintele Republicii Moldova, Parlamentul și Guvernul au luat ..... avocacii parlamentari din cauza raportului prezentat recent Parlamentului, ...

**56k** *In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.*

**Score:** 75

**References:** Although every answer depends on the complexity of the cases brought by citizens to the Center, generally the examination will not last more than two months, and, if well-defined, the official notification of the ombudsman are sent in appropriate terms. Ombudsmen have regular days for public meetings, up to three times per month (art.38).

**Social Scientist's Comments:** Reacția guvernului actual nu s-a lăsat mult așteptată și avocacii parlamentari Lazari C. și Potînga V. au fost imediat destituiți, fiind înlocuiți cu ... [\[ LINK \]](#)...

## 57: Can citizens access the reports of the ombudsman?

### 57a *In law, citizens can access reports of the ombudsman(s).*

**Score:** YES

**References:** Law on the parliamentary attorneys (Ombudsmen), No.1349-XIII of Oct. 17, 1997, art. 33, stipulates that parliamentary attorneys undertake public education activities, and in this regard they make available their reports on the official web-site of the Center for Human Rights. [\[LINK\]](#)

**Social Scientist's Comments:** All reports are posted on the web-site of the Center for Human Rights - [\[LINK\]](#)

### 57b *In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.*

**Score:** 100

**References:** Yes, within a reasonable period of time, the reports are translated and edited in Romanian/Moldovan, Russian and English. [\[LINK\]](#)

### 57c *In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.*

**Score:** 75

**References:** In practice, the Center for Human Rights regularly publishes the annual reports of the attorneys, acting as ombudsmen, and citizens may easily access them in different languages (Romanian and Russian). [\[LINK\]](#)

**Social Scientist's Comments:** Citizens do not have to pay for accessing the reports or other notes and opinions of the parliamentary attorneys in Moldova. By law, art.40, ombudsmen have the obligation to inform the media and population about the existing problems of human rights and liberties in Moldova, to keep records of the complaints and logged appeals. Law No.1349 -0 XIII of Oct. 17, 1997

**58: Is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?**

**58** *In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?*

**Score:** YES

**References:** Law No.312-XIII of Dec. 8, 1994 on the Court of Accounts/Auditing Court

**59: Is the supreme audit institution effective?****59a In law, the supreme audit institution is protected from political interference.****Score:** YES

**References:** Art.14 of the Law stipulates that the chair of the Court of Accounts is appointed by the Parliament, at the proposal of the president, for a five-year mandate. All members of the Court of Accounts are appointed by the Parliament, at the Proposals of the chair of the Court of Accounts. Members are independent and immovable for the entire period of five years.

**Social Scientist's Comments:** Art.12 of the Law stipulates that out of seven members of the Court of Accounts, three will be proposed by the parliamentary majority, and four by the opposition. Law on Accounts Court from Dec. 8, 1094, nr 312-XIII; Art. 32- members and employees of the Court have no right: a) to be a member of a political party or to carry out public acts with political character; b) to disclose state, confidential, commercial or individual information.

**59b In practice, the head of the audit agency is protected from removal without relevant justification.****Score:** 25

**References:** Art.18 of the Law stipulates that the chair and other members of the Court can be removed from their positions by the Parliament, if they do not fulfill satisfactorily their main competencies, have violated the legislation or have committed other illegalities. The removals must be voted by the majority of MPs.

**Social Scientist's Comments:** In practice, the chair of the Auditing Chamber is quite vulnerable to political intervention and can be removed by the Parliament. [\[LINK\]](#) [\[LINK\]](#)

**59c In practice, the audit agency has a professional, full-time staff.****Score:** 75

**References:** [\[LINK\]](#) According to the regular staff, the Court of Accounts has 150 employees, including 124 employees in the central office and 26 employees in regional offices. Court of Accounts employees have the status of public servants, and specialist positions can be occupied by way of hiring and contest selection. The president, deputy president and the five members of the Court of Accounts are officials, and their positions are filled by appointment. Of the 150 employees, 133 are public servants, and 17 employees represent the technical staff. The Court of Accounts, as a supreme external financial control body, set out its mission to carry out independent, reliable, transparent and professional controls/audits over the management of public finances and assets with a view to promote high standards of financial management to the benefit of the citizens of the Republic of Moldova. All employees of the Court of Accounts have higher education, except the technical staff. They are specialized in various areas: law, accounting, economy, audit, finance and accounting, finance and banks.

**59d In practice, audit agency appointments support the independence of the agency.****Score:** 75

**References:** By definition, the Court of Accounts ensures a kind of dynamic balance of interests between various parties (it has three members of the ruling party and four members of the opposition). Therefore, political influence is not something new at the Court. The president of the Court of Accounts proposes to the Parliament candidates for member positions, based on the recommendations of the legally established parliamentary factions. The position of employee of the Court of Accounts is incompatible with any other remunerated position, public or private.

**Social Scientist's Comments:** The Court of Accounts is transforming itself into a national auditing court - [\[LINK\]](#) [\[LINK\]](#) - Curtea de Conturi dispune de independenc organizational, .... Curtea de Conturi a Republicii Moldova este membru al INTOSAI \_i EUROSAI din anul 1994 ...

**59e In practice, the audit agency receives regular funding.****Score:** 75

**References:** The Court of Accounts receives regular funding from the state budget - Art.37 of the law on Court of Accounts indicates that the Parliament oversees the implementation of the expenditures and budgets. [\[LINK\]](#) Locul si rolul Curtii de Conturi in cadrul sistemului organelor de stat <http://www.interlic.md/index.php?news=6405>

**59f In practice, the audit agency makes regular public reports.****Score:** 75

**References:** Art. 21 defines the function of the Court of Accounts: to exercise control over the ways of formation and administration of financial public resources, as well as the way of public ownership. The Court makes regular reports to the Parliament, which summarize the analytical information about the controls and audits undertaken on various public agencies and authorities. Some of them are posted on the web-site: [\[LINK\]](#). All decisions of the court, as well as its annual reports are published in the Monitorul Oficial al RM. The Court also edits a bulletin - [\[LINK\]](#). The bulletin includes various points of view that contribute to the formation of an adequate picture of what is going on in the process of transformation of the Court of Accounts and information about its interaction with other institutions and organizations. The Informative Bulletin also includes comments on the Strategic Development Plan, which was developed with the support of foreign donors. The Informative Bulletin is a place for theoretical and practical debates on the most important problems in the activity of the Court of Accounts, financial controls and practices in public financial management. It is conceived in a way to address an issue of great interest for us, namely audit, in general, and public finances in particular.

**Social Scientist's Comments:** The Court has set up a dynamic cooperation with various auditing bodies from Europe, and is considered to be quite professional. [\[LINK\]](#)

**59g In practice, the government acts on the findings of the audit agency.****Score:** 50

**References:** Despite the precise character of the reports produced by the Court of Accounts, few measures have been taken by the governmental executive bodies so far, and the largest majority of violations did not result in charges. In some cases, the same corrupted people are again and again appointed to the top-rank positions of public authorities. [\[LINK\]](#).

**Social Scientist's Comments:** [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#)

**59h** *In practice, the audit agency is able to initiate its own investigations.*

**Score:** 75

**References:** In practice, the Court of Accounts planned serious investigations in the largest majority of organizations. It had to avoid some of them, stating the reason that it does not have enough resources to cover all public entities. In most cases irregularities are found almost everywhere, as the budgetary and financial discipline is practically very low. In some cases, the Court of Accounts launched investigations at the special notifications of the MPs, or even media appeals - [\[LINK\]](#). Regular reports show to the public the results of its investigations - [\[LINK\]](#) [\[LINK\]](#)..

**Social Scientist's Comments:** To increase the effectiveness of its findings, the Court of Accounts started to cooperate intensively in 2007 with the Center for Combating Economic Crimes and Corruption - [\[LINK\]](#)

## 60: Can citizens access reports of the supreme audit institution?

### 60a *In law, citizens can access reports of the audit agency.*

**Score:** YES

**References:** Citizens may assess the reports by consulting the Monitorul Oficial, or the web-site [\[LINK\]](#)

### 60b *In practice, citizens can access audit reports within a reasonable time period.*

**Score:** 50

**References:** As a rule, the investigations initiated by the Court of Accounts last longer than media expect, due to the limited staff of the Court. [\[LINK\]](#)... -

**Social Scientist's Comments:** [\[LINK\]](#)

### 60c *In practice, citizens can access the audit reports at a reasonable cost.*

**Score:** 50

**References:** Art. 6 of the Law on Auditing Chamber stipulates that all decisions of the Chamber, adopted on the basis of punctual controls of audit, are published in the Monitorul Oficial within 10 days from their official endorsement. In appeal cases, they are published after the final decision of the judiciary.

**Social Scientist's Comments:** Citizens are not requested to pay in order to consult the reports produced by the Court of Accounts. [\[LINK\]](#)

## 61: Is there a national tax collection agency?

### 61 *In law, is there a national tax collection agency?*

**Score:** YES

**References:** By provisions of the Fiscal Code (No.1163 - XIII of April 24, 1997), the main fiscal body subordinated to the Ministry of Finance is the Principal Fiscal Inspectorate (art.133), which oversees the activities of territorial fiscal inspectorates, ensures the creation and functioning of the unique informational system that concerns tax-payers and their fiscal obligations.

**62: Is the tax collection agency effective?****62a** *In practice, the tax collection agency has a professional, full-time staff.***Score:** 50

**References:** The fiscal administration has certainly improved during the last years in Moldova. As a result of continuous support, the Fiscal Inspectorate has installed a large network of territorial inspectorate-branches, uniform system of monitoring tax-payers, and important instruments of contacts with tax-contributors from the private sphere and physical entities. [\[LINK\]](#)

There are too many fiscal controls and too many controlling bodies for private business entities (around 54 in total,) which means that the largest portion of the budget covers only their functioning and maintenance (it is almost three times larger than the Ministry of Defense.) Nevertheless, the fiscal administration is going to further upgrade and change. Experts demand flat tax introduction of 9-12 percent, which will reduce the system, and other steps to rationalize the existing structures. [\[LINK\]](#)

**Social Scientist's Comments:** Politica bugetar-fiscal în Moldova se afl permanent în centrul atenției ... Datoria intern publică a crescut și ea, administrarea ei fiind în prezent ... [\[LINK\]](#) -

**62b** *In practice, the tax agency receives regular funding.***Score:** 75

**References:** Tax Inspectorates receive good financing, and the salaries for the employees in the field are comparable with the wages in the banking sector. However, this does not resolve corruption suspicions. (În anul 2007, în R. Moldova s-a dat foarte mult mit. ... peste 35 de milioane au ajuns la inspectoratele fiscale, iar medicilor ...). [\[LINK\]](#) SMEs Claim They Are Still Victimized by Aggressive Fiscal Inspectors [\[LINK\]](#)

**Social Scientist's Comments:** Ce ascund demnitarii moldoveni atunci când refuz să-i fac publice .... comisariate de poliție, judecătoria, inspectorate fiscale etc. ... [\[LINK\]](#)

### 63: Are tax laws enforced uniformly and without discrimination?

#### 63 *In practice, are tax laws enforced uniformly and without discrimination?*

**Score:** 25

**References:** Tax regulations are enforced selectively, as the practice shows in Moldova. The Ministry of Finance claims that in 2008 it launched the elaboration of a national strategy on fiscal administration, by reforming the subsystems of taxes and control. In the field of accountability, the fiscal bodies have elaborated national standards of accountability, national standards of audits, detailed regulations and handbooks for the new types of functions introduced per se in the system of fiscal administration, in line with recommendations of the European Union. [\[LINK\]](#)

**Peer Reviewer's Comments:** The Inspectorate is quite often referred to as a political tool against opposition media and political parties, by performing too many checks and controls during the year.

## 64: Is there a national customs and excise agency?

### 64 *In law, is there a national customs and excise agency?*

**Score:** YES

**References:** Law on custom service (No.1150-XIV of July 20, 2000) Customs Code of the Republic of Moldova, nr. 1149-XIV, July 20, 2000 Tax code of the Republic of Moldova 1163-XIII, April 24, 1997 section III VAT and IV Excise Law on state regulation of the foreign trade activity, nr. 1031-XIV, June 8, 2000 Law on customs service nr. 1150- XIV, July 20, 2000 Law of the RM on customs tariff, nr. 1380-XIII, Nov. 20, 1997 Law of the RM on anti-dumping, countervailing and safeguard measures, nr. 820-XIV, Feb. 17, 2000 Law of the RM on state regulation of external trade activity nr. 1031- XVI, June 8, 2000 Law of the RM on free economic zones nr.440-XV, July 27, 2001 Law of the RM on licensing of some types of activities nr. 451-XV, July 30, 2001 Law of the RM on the import and export of goods to the territory of the Republic of Moldova by the physical persons nr.1569-XV, Dec. 20, 2002

**65: Is the customs and excise agency effective?****65a** *In practice, the customs and excise agency has a professional, full-time staff.***Score:** 75

**References:** The Customs Service has the mission to promote customs policies in view of ensuring the economic security of the state through trade facilitation, security of the international circulation of goods and means of transportation, customs regulations observance, import and export duties collection, fight against customs fraud, development of a professional and transparent administration, which implements international standards for the customs simplification and protects the society by enforcing the customs legislation uniformly and impartially. The professional training of the Customs Service staff includes systematic professional development activities, in conformity with international standards, organized in the framework of the Training Center for Customs Officers. This activity is strategically important as it enhances the professional competences, expands and updates the knowledge of the customs staff, ensures professional integrity and develops the necessary skills for the efficient fulfillment of the job responsibilities and functions of the customs bodies as established through the current legislation.

**65b** *In practice, the customs and excise agency receives regular funding.***Score:** 75

**References:** Governmental Decision approving several normative acts regarding the implementation of the Law on customs service nr.383, May 29, 2001. Governmental Decision approving the Disciplinary Statute of the customs officers in the Republic of Moldova nr. 746, Aug. 7, 1997 Governmental Decision on flag, banner signs of the customs authorities nr.554, June 16, 1997 Governmental Decision on approving the Trade Nomenclature of the Republic Moldova, nr.54, Jan. 26, 2004

**Social Scientist's Comments:** Custom officers are paid regularly. The taxes collected and the border excises by the Custom Service make up almost 70 percent of the state revenues. This shows up that the economy of Moldova is largely dependent on imports and remittances, and therefore the Customs salaries are quite high to keep it functional.

**66: Are customs and excise laws enforced uniformly and without discrimination?**

**66** *In practice, are customs and excise laws enforced uniformly and without discrimination?*

**Score:** 75

**References:** The Customs service has improved its activity in the last years. It is more organized, professionalized and well-managed. Partially, this is due to the European Union assistance, and to the EUBAM installed between Moldova and Ukraine in March 2006. Media still have some corruption, due to the fact that the personnel is still not diverse and lacks experience. However, even TI-Moldova, which sharply criticized the Customs last years, admit that some improvements are visible. [\[LINK\]](#) [\[LINK\]](#).

**Social Scientist's Comments:** Nicolae Btrâncea, director general adjunct al Serviciului Vamal, nu neag existenta corupciei în serviciul vamal, îns a afirmat c se duce o lupt intens ... [\[LINK\]](#)

**67: Is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?**

**67** *In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?*

**Score:** YES

**References:** Aiming at implementing the provisions of Law no.121-XVI dated May 4, 2007 on the management and de-nationalization of public property (Official Bulletin of Republic of Moldova, 2007, no. 90-93, art.401), the government decided to establish a Public Property Agency.

## 68: Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

### 68a *In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.*

**Score:** YES

**References:** By law, the Ministry of Economy and Trade implements the state policy in the field of administration and de-statization of the public property, and uses the Agency for Public Property as a specialized body, with functional autonomy, to undertake this task on a regular and professional manner. The following laws are applied by the Agency in pursuing its aims: Legea privind administrarea si deestatizarea proprietatii publice - nr. 121-XVI din 4 mai 2007 (Monitorul Oficial al Republicii Moldova nr. 90-93/401 din 29 iunie 2007); Legea Republicii Moldova Codul fiscal nr.1163-XIII din 24.04.97 (Monitorul Oficial al Republicii Moldova nr.62/522 din 18.09.1997) and Legea privind pretul normativ si modul de vanzare-cumparare a pamantului - nr.1308-XIII din 25.07.97 (Monitorul Oficial al Republicii Moldova nr.57-58/515 din 04.09.1997). The law defining the process of de-statization and privatization is rather technical, and has no special provisions on political influences. Art. 69 of the law stipulates that transparency is a key-principle, which shall be followed and respected by central and local authorities.

### 68b *In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.*

**Score:** 75

**References:** In practice, the Public Property Agency has a full-time staff, with a staff threshold set at 51 units and an annual labor remuneration budget in compliance with current legislation. See Governmental Decision nr. 1008 dated Sept. 10, 2007. The Public Property Agency under the Ministry of Economy and Trade will have a general deputy director. The Ministry of Economy and Trade will submit to the Ministry of Finance proposals on allocations required for the activity of the Public Property Agency under the Ministry of Economy and Trade related to structural changes. The Public Property Agency is the lawful successor of the Privatization Agency under the Ministry of Economy and Trade.

### 68c *In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.*

**Score:** 75

**References:** As a component of the Ministry of Trade and Economy, the Public Property Agency receives regular funding from the state budget. [\[LINK\]](#)

### 68d *In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.*

**Score:** 25

**References:** As it seems, the Public Property Agency undertakes the role of the registrar of property and organizer of privatization of public/state assets to the applicant-buyers, and has no practical tools to initiate investigations, when notified. It does not have the necessary competence to initiate this function. [\[LINK\]](#) [\[LINK\]](#)...

**68e** *In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.*

**Score:** 0

**References:** The Agency is not entitled to impose penalties or fines, according to its limited mandate and statute, it only oversees the privatization process and de-statisation. - Resolution on approving the structure, staff threshold and regulations of the Public Property Agency under the Ministry of Economy and Trade nr. 1008 dated Sept. 10, 2007 -- Official Bulletin nr.146-148/1049 from Sept. 14, 2007.

**69: Can citizens access the financial records of state-owned companies?****69a In law, citizens can access the financial records of state-owned companies.****Score:** YES**References:** By law, art.69 of the law on de-statization and privatization, stipulates that the Government shall present an annual report to the Parliament on the totals of administration and de-statization of public property for the previous year. Information on the results of privatization will be made public via the Official Monitor.**69b In practice, the financial records of state-owned companies are regularly updated.****Score:** 25**References:** In practice, financial records of state-owned companies are not updated nor known to the public. Only the list of enterprises which are prepared for privatization are published regularly by the Agency - [\[LINK\]](#). This could support the suspicion that the best parts of state properties are never included in the mass privatization program. There is a law on the maintenance of evidence of public property of RM - Nr.379 din 03.07.96 Monitorul Oficial al R.Moldova nr.46-47/391 din 11.07.1996, but it has never been properly implemented.**69c In practice, the financial records of state-owned companies are audited according to international accounting standards.****Score:** 25**References:** In practice, most state enterprises have been bankrupted or failed to perform. Therefore state officials regularly decide to 'save' them by freezing debts, or by suspending bankruptcy procedures, or by canceling debts (as was the case in April 2007, when the president of Moldova announced liberalization initiatives!). Usually, the Court of Accounts avoids to audit/control these enterprises, claiming it has too much of work with the public organizations and authorities.**Social Scientist's Comments:** Legea privind terenurile proprietate publica \_i delimitarea lor. ... Convencia între Guvernul Republicii Moldova \_i Guvernul României privind cooperarea în ... [\[LINK\]](#) --**69d In practice, citizens can access the financial records of state-owned companies within a reasonable time period.****Score:** 0**References:** There are no such records unless the directors of these entities decide otherwise. [\[LINK\]](#) -**69e In practice, citizens can access the financial records of state-owned companies at a reasonable cost.****Score:** 25

**References:**

Information about state enterprises is not generally available in Moldova. Although they are managed by the government through the Agency of Public Properties and public Acquisitions, the web-site does not include relevant information about the business and management situation of the enterprises, nor the most recent auditing reports. As a result, many people insist in saying that un-privatized enterprises are usually used by the bureaucracy to earn post-privatization dividends. [\[LINK\]](#) Sources report that the state bureaucracy established the rule through which top-ranked state officials are included in various management councils, from where they receive generous nominal salaries regardless of the situation of these entities. In 2007, the government canceled more than 4 billion lei (US\$386,850) in debts accumulated by state enterprises, showing it as a 'liberalization' initiative. [\[LINK\]](#) [\[LINK\]](#)

**Social Scientist's  
Comments:**

There are no fees associated with this information. Simply it does not exist, or it shall be hunted assiduously by investigative journalists.

## 70: Are business licenses available to all citizens?

### 70a *In law, anyone may apply for a business license.*

**Score:** YES

**References:** Law on the provision of licenses for various types of activity - No.332 - XIV of March 26, 1999, amended by the Law No.1118 - XIV of July 7, 2000 Art. 6 stipulates that anyone (legal and physical entities, i.e. foreign residents) may apply to receive a license.

### 70b *In law, a complaint mechanism exists if a business license request is denied.*

**Score:** YES

**References:** Art.13 of the Law on licensing set up the right to appeal in a court of justice a decision to reject the application for a license by the state body entitled to issue licenses.

### 70c *In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.*

**Score:** 25

**References:** [\[LINK\]](#) - Licensing has improved slightly. Today, the Licensing Chamber is licensing 39 types of activity, which require over 239 of documents, depending on the kind of activity, out of which 135 will be provided through the one-stop-shop office. Despite recent structural reform efforts, more needs to be done. EBRD transition and World Bank "Doing Business" indicators, as well as the World Economic Forum point to a weak business environment. Key reform areas include streamlining of regulatory procedures, judicial reform, strengthening bankruptcy procedures, improving business legislation, simplifying licensing requirements, and modernizing the tax administration. [\[LINK\]](#)

**Social Scientist's Comments:**

[\[LINK\]](#)

MOLDOVA ÎN TRANZI b IE, Privire economic, N3, Centrul de ... [\[LINK\]](#) -

### 70d *In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.*

**Score:** 50

**References:** The World Bank Survey "Cost of Doing Business 2008" ranked Moldova at 92 out of 178 states of the world (it was at 103 in 2006), and the scores were due to the reduction of the fiscal burden. [\[LINK\]](#) In practice, licensing is not easy even after serious work initiated by the state to simplify the existing system.

**Social Scientist's Comments:**

[\[LINK\]](#)

## 71: Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

**71a** *In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.*

**Score:** YES

**References:** Law on compulsory medical insurance and assistance, No.1585 - XIII of Feb. 27, 1998. Art. 11 of the Law stipulates the rights of the ensured persons to choose the type of primary medical care services, as well as the family doctor, to receive medical assistance throughout the territory of Moldova, to get benefits of the medical services to the size and quality provided by the national unique program, regardless of the paid insurance quotes, etc. Art.12 stipulates the obligations of the National Company of Medical Insurance, and its relationship with the medical service providers (hospitals, polyclinics).

**Social Scientist's Comments:** Yes, they are transparent, but not available.

**71b** *In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.*

**Score:** YES

**References:** Law on the ecological expertise and evaluation of impact over the environment, No.851-XIII of May 29, 1996

**71c** *In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.*

**Score:** YES

**References:** Labor Code, No.154, XV of March 28, 2003 defines basic public safety standards. The legislation is quite comprehensive, but difficult to follow by business entities.

**Social Scientist's Comments:** Attempting to assimilate the main norms of the international law, Moldova has ratified a number of international conventions on labor issues, such as Convention No. 81 on labor inspection in industry and trade, ratified by the Parliament on Sept. 26, 1995, and Convention no.129 on the labor inspection in agriculture, ratified in September 1997. In 1992, Moldova established a special agency for labor inspection as a Department for Labor Protection affiliated to the Social Protection and Family, while in 1998, it set up a State Inspectorate for Labor Protection. On May 10, 2001, the Parliament of Moldova adopted a new law on labor inspection.

## 72: Does government effectively enforce basic health, environmental, and safety standards on businesses?

**72a** *In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.*

**Score:** 75

**References:** In practice, labor safety requirements are carried out. [\[LINK\]](#). From the web-site of the specialized agency on labor protection, we may find out that during the first seven months of 2008, the Agency implemented 4,623 controls at various economic agents, in the fields of labor relations and safety regulations. As a result of these controls, the Agency notified 43,464 violations of the labor code, out of which 21,939 in the field of labor relations and 21,525 in the field of labor safety regulations. The Agency claims that in the same reported period of time it suspended the functioning of 12 sections and sectors, and banned the use of 239 technical equipments, which presented risks for labor accidents. A number of 218 officially unemployed workers were found working in the business field.

**Peer Reviewer's Comments:** It is widely reported that inspectors take bribes for not reporting some irregularities.

**72b** *In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.*

**Score:** 50

**References:** The Agency may carry out ad hoc controls of the economic agents, companies and organizations, and on the basis of their controls they may log in appeals to the prosecution, policy sections and bodies specialized in anti-corruption activities. In 2008, the Agency reported 44 notifications in this regard. Moreover, the Agency may impose fines. In 2007 it provided consultancy assistance to 640 citizens. [\[LINK\]](#)

**72c** *In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.*

**Score:** 25

**References:** In practice, labor inspections are not carried out in a uniform, equal and transparent manner. In 2006, the agency suffered a radical staff cut-off, which further deteriorated the implementation of its business plans for 2007.

**Social Scientist's Comments:** Some authors claim that the latest amendments to the legislation on labor safety ignored a systemic approach, and mechanically multiplied some normative acts which cannot be implemented. [\[LINK\]](#) [\[LINK\]](#) - 74k

### 73: Is there legislation criminalizing corruption?

#### 73a *In law, attempted corruption is illegal.*

**Score:** YES

**References:** By law, corruption is illegal. Law on preventing and combating corruption - No.90 - XVI of April 25, 2008, art.2 - "corruption is the illicit use by a person with public statute of his/her function in order to receive material benefits or undue advantage for him/herself or for any other person against the legitimate interests of the society and state, or illicit provision of some material benefits or undue advantages to another person."

#### 73b *In law, extortion is illegal.*

**Score:** YES

**References:** The law does not place extortion as an illegal activity under art.16, which enlists the kinds of activity prosecuted by the legislation on corruption. Nevertheless, it defines corruption as "undue advantage, services, favors, facilities in delivering some obligations or other benefits, which improve undeservedly someone's situation compared with another situation before the incidence of the corruption act or other kinds of corruption behavior." Nevertheless, the specialized anti-corruption bodies (Center for Preventing and Combating Economic Crimes and Corruption) qualifies extortion as a penal crime - [\[LINK\]](#)

**Social Scientist's Comments:** Andrei Pînzari, a extorcat \_i a primit mit în sum de 1 750 lei de la o ... Vitalia Pavlicenco, 11.09.2008. Moldova a lasat joi o impresie ... [\[LINK\]](#)

#### 73c *In law, offering a bribe (i.e. active corruption) is illegal.*

**Score:** YES

**References:** Art.16 of the Law on preventing corruption qualifies bribes as a severe penal crime, and prescribes penalties for that.

**Social Scientist's Comments:** Liliana a scris (4 Septembrie 2008). nu ma mira deloc ca coruptia in tara asta ... cu o persoana in troleibuz despre faptul ca i s-a cerut mita la angajare. ... [\[LINK\]](#)

**Peer Reviewer's Comments:** Article 325 of the Criminal Law prescribes punishment for active corruption from two to 12 years in prison and fines from 40,000 to 80,000 lei (\$4,000 to \$8,000).

#### 73d *In law, receiving a bribe (i.e. passive corruption) is illegal.*

**Score:** YES

**References:** Art.16 of the Law defines two kinds of penal violations: active and passive bribing.

**Peer Reviewer's Comments:** Article 324 of the Criminal Law prescribes punishment for passive bribing from two to 15 years in prison and fines from 20,000 to 100,000 lei (\$2,000 to \$10,000).

**73e *In law, bribing a foreign official is illegal.***

**Score:** YES

**References:** Art.16 defines the bribe in relationship with public officials, civil servants, physical persons and legal entities, which could be penalized in accordance with the Penal Code - No.985 - XV of April 18, 2002

**73f *In law, using public resources for private gain is illegal.***

**Score:** YES

**References:** Art.15 of the Law on preventing corruption qualifies as severe crime "the illicit use, in private interest or in the interests of other persons, of public goods, of which a public official is personally responsible in his position" (p.f), and "fraudulent management of material and financial public resources, in private interest or in the interests of other persons." (p.i)

**Peer Reviewer's Comments:** Article 327 of the Criminal Law prescribes punishment for using public resources for private gain from three to 10 years in prison and fines from 3,000 to 20,000 lei (\$300 to \$2,000).

**73g *In law, using confidential state information for private gain is illegal.***

**Score:** YES

**References:** Art.15 of the Law defines a "corrupt" civil servant when he/she "uses information received in the exercise of their functions in personal interest or in the interest of other persons, when this information is confidential."

**73h *In law, money laundering is illegal.***

**Score:** YES

**References:** In 2002 Moldova ratified the International Convention on Money Laundering - Law No.914-XV of March 15, 2002 In 2007 it ratified the Convention of the Council of Europe on Money-Laundering - No.165-XVI of July 13, 2007, which thus take force over the domestic legislation.

**73i *In law, conspiracy to commit a crime (i.e. organized crime) is illegal.***

**Score:** YES

**References:** The legislation does not provide explicitly what would be conspiracy to commit a crime, but it qualifies corruption activities as personal responsibilities of the civil servants, with the aim to collect individual benefits or benefits to a third person. This could be interpreted as a conspiracy. Art.17 stipulates other forms of penalties for corruption activities.

**Peer Reviewer's Comments:** The conspiracy to commit a crime is defined by the Criminal Law in Article 26 - Preparation of a crime - and is punished according to Article 81 - Application of a punishment. In such cases the punishment cannot be more than half of the maximum term of the highest punishment provided by the corresponding article of the Criminal Law for the concluded crime.

**74: Is there an agency (or group of agencies) with a legal mandate to address corruption?**

**74** *In law, is there an agency (or group of agencies) with a legal mandate to address corruption?*

**Score:** YES

**References:** A Center for Combating Economic Crimes and Corruption was established in 2002 (No.1104-XV of June 6, 2002). The Center is defined by law as enforcement body, specialized in counteracting economic and fiscal offenses, and corruption as well. The legal framework of the Center's activity includes the constitution, the Law regarding the Center for Combating Economic Crimes and Corruption, adopted by Parliament on June 6, 2002, other normative acts, including international treaties to which the Republic of Moldova is a party.

## 75: Is the anti-corruption agency effective?

### 75a *In law, the anti-corruption agency (or agencies) is protected from political interference.*

**Score:** YES

**References:** Art.13 of the Law establishing the Center restricts its hired personnel from working for a certain political party or parties, NGOs, trade unions or churches.

### 75b *In practice, the anti-corruption agency (or agencies) is protected from political interference.*

**Score:** 25

**References:** The Law on the Center for Combating Economic Crimes and Corruption, adopted by the Parliament of the Republic of Moldova on June 6, 2002, as well as other normative acts, including international treaties to which the Republic of Moldova is a party. The Center exerts its main forms of activity on the basis of legality, respect of fundamental human rights and liberties, opportunity, combination of public methods and means with secret ones, personal and crew management, cooperation with other public authorities, NGOs and citizens. Some opposition leaders claimed in 2008 that the Center aims to prosecute only political opponents of the party in power. See: [\[LINK\]](#).  
www.pldm.md/index.php?option=com\_content&view=category&id=2&Itemid=30

**Social Scientist's Comments:** [\[LINK\]](#) MARTI, 17 IULIE 2007, NR.671 Voronin a dat startul electoral al represiunilor politice CINE E URMATORUL?Voronin a dat startul electoral al represiunilor politice - [\[LINK\]](#)

### 75c *In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.*

**Score:** 0

**References:** Art. 8 of the Law on the Center for Combating and Preventing Economic Crimes and Corruption defines shortly that the Center is lead by one director, appointed by the government for a four-year period. However, it is unclear how he is selected, and for which reasons he could be dismissed. Art. 9 of the law defines the main competencies of the director and the rights, but there are no any specific provisions on removal or protection from removal.

**Social Scientist's Comments:** In 2007, a former director of the Center, Mejinski, was replaced by the former head of the Tax Inspectorate, while he became the minister of Interior. No logical explanation for such change was provided to the public, and rumors were quite controversial in this regard. [\[LINK\]](#).

**Peer Reviewer's Comments:** With the same controversial manner, a few months later, in November 2008, the freshly named director of CCECC, Sergiu Puscuta, was replaced by the former deputy director of Intelligence Service.  
<http://www.allmoldova.com/index.php?action=newsblock&rid=0&id=1227707298&lng=rom>

### 75d *In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.*

**Score:** 25

**References:** In practice, personnel appointments and selection are based on the general regulations of the Law, art.12. A special control is required for the employment to the Center, but the law does not exactly define the conditions for such special test verification.  
[www.transparency.md/documents\\_ro.htm](http://www.transparency.md/documents_ro.htm)

**Social Scientist's Comments:** În 2006, conform presei informativ, zisul Centru de anticorupcie, cu 640 de angajati, a intentat numai 200 de dosare penale, dintre care pe 50 au \_i fost ... [\[LINK\]](#) -

**Peer Reviewer's Comments:** During a public event, President Voronin mentioned in particular the need to revise the organizational chart of the center and test the staff for knowledge and skills. One of the measures should also be the adoption of amendments that would make polygraph tests compulsory for every CCCEC officer and eventually for other law enforcement personnel.  
<http://social.moldova.org/stiri/rom/168397/>

### 75e *In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.*

**Score:** 50

**References:** It is difficult to estimate the number of employed staff, professional qualifications and budget of the Center for Preventing Corruption - [\[LINK\]](#). Even the Anti-Corruption Alliance does not have any snapshot information on the issues. It is known that the Center has signed up various agreements with state agencies and ministries, as well as with some NGOs and think tanks. The high complexity of the activity performed by the CCECC implies collaboration with other public institutions and law enforcement organs in the field. The results achieved in the prevention and combating corruption are to a significant degree owed to the efficient interaction between the CCECC, MIA, General Prosecutor's Office, Customs Service, Frontier Troops, Service for Information and Security, State Principal Fiscal Inspection and others.

**Social Scientist's Comments:** Fenomenul corupției în cadrul structurilor Serviciului Fiscal de Stat și Serviciului Vamal este în descrescere, a declarat joi în cadrul sedinței Clubului presei economice Lilia Cara-ciuc, director Transparency International Moldova (TIM). [\[LINK\]](#) Oficerii Centrului pentru Combaterea Crimelor Economice și Corupției (CCCEC) l-au recinut zilele trecute pe un locuitor al capitalei, bnuīt de estorcarea a 5000 de euro. [\[LINK\]](#)

**Peer Reviewer's Comments:** In November President Voronin criticized the performance of the CCECC, declaring that the objectives set when the center was established concerning fight against corruption, economic crimes, financial and banking infractions have not been fulfilled to the proper extent, and that the center's contribution in countering these crimes was insignificant. The president also said that CCECC officers prefer to use police methods instead of economic ones, which would be the right approach for such an institution. He said the CCECC hasn't been enterprising enough in improving the legal framework needed to prevent corruption. <http://social.moldova.org/stiri/rom/6464/>

**75f In practice, the anti-corruption agency (or agencies) receives regular funding.**

**Score:** 75

**References:** The total budget is 57 million lei (US\$5.5 million), according to the excerpts provided by the Center, as a part of the public budget for 2008 nr.254-XVI of Nov. 23, 2007 (Monitorul Oficial nr.192-193/745 din 13.12.2007). Funding is provided in time and is quite generous.

**75g In practice, the anti-corruption agency (or agencies) makes regular public reports.**

**Score:** 75

**References:** The Center makes regular reports, which can be found on its web-site- [\[LINK\]](#). At the end of the year, the director of the Center provides an overview of the main results and accomplishments for the activities undertaken. The director also reports on the implementation of the main international conventions, of which Moldova is a part, number of violations, illegalities, covered money-laundering attempts, etc. The establishment and strengthening of mutual cooperation with similar foreign services, as well as with respective international organizations represents one of the priorities of the Office for Prevention and Control of Money Laundering. Thus, within the international cooperation framework, memoranda of understanding with similar units from other states were signed.

**Social Scientist's Comments:** [\[LINK\]](#) Sub pretextul luptei cu corupția, Centrul Anticorupție este utilizat în scopul intimidării CCA ... [\[LINK\]](#) ...

**75h In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.**

**Score:** 25

**References:** It is difficult to assess due to the fact that the legal regulations related to the Center are quite generous, but the practical implementation leaves to be desired. Moreover, the vulnerable statute of the director of the Center, who can be replaced without specific procedure, makes the institution vulnerable to political influences, as the director can be appointed and dismissed by the government, even without appropriate consultation with the Parliament.

**Social Scientist's Comments:** Centrul de Resurse Juridice (CRJ) a lansat proiectul "Dezvoltarea capacității ... măsurilor anticorupție și exercitarea dreptului de acces la justiție". ... [\[LINK\]](#)

**75i In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.**

**Score:** 75

**References:**

By law, the Center may initiate investigations of the cases reported or identified (art.7), may fill in reports on illegalities or violations, may arrest, according to the law, persons suspected of committing infractions. For instance, the Control and Investigation Department of the Center has reported 5,789 inspections and controls, the documented damages amounting to over 1,082 billion lei (US\$104.6 million), while the calculated fiscal obligations, penalties and financial sanctions were valued at 1,044 billion lei (US\$101 million). The Department has the responsibility to detect and eradicate economic, financial and fiscal infringements and violations; perform economic-financial and fiscal inspections; apply sanctions as provided by the law; calculate fiscal obligations and recover them in the way of enforcement, as set out in the fiscal legislation.

**Social Scientist's  
Comments:**

Strategia nacional de prevenire \_i combatere a corupciei [\[LINK\]](#)

**Peer Reviewer's Comments:**

Within CCECC there are corruption risks that are generated by the high level of administrative discretion and the combination of control and criminal investigation functions.  
[http://www.ade.md/img/pdf/Rap\\_trim\\_II\\_Partea\\_I\\_CAPC\\_eng.pdf](http://www.ade.md/img/pdf/Rap_trim_II_Partea_I_CAPC_eng.pdf)

## 76: Can citizens access the anti-corruption agency?

**76a** *In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.*

**Score:** 50

**References:** The Center acts in a reasonable period of time. The Center is fully equipped and well-organized, which allows it to plan and undertake rapid operations. [\[LINK\]](#)

**Social Scientist's Comments:** Someone claim that the Center's activities are not fully independent and are influenced by political factors - [http://www.presa.md/system\\_components/print\\_news.php?news\\_id=6423-44k](http://www.presa.md/system_components/print_news.php?news_id=6423-44k) . Presedintele Asociatiei Micului Business din R. Moldova, Eugen Roscovanu, ... sub pretextul luptei cu corupcia, Centrul Anticorupcie este utilizat în scopul [\[LINK\]](#)

**76b** *In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of reprimand.*

**Score:** 50

**References:** The Center has installed a hot line for the citizens to report cases of corruption, ensuring the anonymity of the calls, and special protection measures - Law on preventing corruption (2007). Other entities have also launched hot lines for anti-corruption activities. (Chisinau) Linia fierbinte anti-corupcie a CAPC. In conneciton with that, the Anti-corruption Coalition launched an appeal at the bening of the year: Apelul cetcenilor la linia fierbinte anti-corupcie:responsabilitate civic sau curaj? [\[LINK\]](#)

## 77: Is there an appeals mechanism for challenging criminal judgments?

### 77a *In law, there is a general right of appeal.*

**Score:** YES

**References:** Code of civil procedures, No.225-XV of May 30, 2003

**Peer Reviewer's Comments:** The Code of Criminal Procedure provides procedure for appeals in criminal cases. The law on administrative court provides procedures of complaint and appeal on decisions of the administrative authority. [http://lex.justice.md/index.php?action=view&view=doc\)=1&id=326970](http://lex.justice.md/index.php?action=view&view=doc)=1&id=326970)

### 77b *In practice, appeals are resolved within a reasonable time period.*

**Score:** 50

**References:** In practice, the judiciary examines appeals very late, which is quite alarming. To address this, the government adopted decision No. 174, of July 19, 2007, concerning the adoption of the strategy of strengthening the judiciary system and the plan of actions to implement the strategy. A special chapter is dedicated to the reduction of the period of examination for judiciary trials. [\[LINK\]](#) This kind of setback caused numerous cases to be lost in the European Human Rights Court. The Parliament of Moldova has prepared a draft decision by which it qualifies the actions of the government and law institutions 'inadequate.' As regards the enforcement of the justice act, Moldova is sentenced by the European Court of Human Rights (ECHR), according to AP Flux. [\[LINK\]](#)

**Social Scientist's Comments:** [\[LINK\]](#)

### 77c *In practice, citizens can use the appeals mechanism at a reasonable cost.*

**Score:** 50

**References:** Cauzele principale ale condamnării Republicii Moldova sînt urmare a: neexecutării hotărîrilor judecătoreşti sau duratei excesive a procedurilor judiciare; ... [\[LINK\]](#) - Curtea reiterează că caracterul rezonabil al duratei examinării cauzei trebuie ... <http://www..justice.md/file/Mazepa%20c.%20Moldovei%20rom> - Una dintre plangerile cetătenilor R. Moldova fața de activitatea CEDO ține de durata procedurilor de examinare a cererilor. În 2007, decizia favorabilă la ... [\[LINK\]](#) -

**Social Scientist's Comments:** The governmental agent of the Republic of Moldova at ECHR, Vladimir Grosu, explained that the huge number of sentences by ECHR is determined by the fact that people are more and more aware of their rights and thus the number of cases increases. He also mentioned that 50 decisions out of 111 regard the flaws in the national legislation. [\[LINK\]](#)



## 78: Do judgments in the criminal system follow written law?

### 78 *In practice, do judgments in the criminal system follow written law?*

**Score:** 50

**References:** The constitution affords a right to subject administrative acts to judicial review: Any person whose rights have been violated in any way by a public authority through an administrative ruling or through lack of timely legal response to an application is entitled to obtain acknowledgment of those rights, cancellation of the ruling, and payment of damages. CONST. art. 53(1). The judiciary has authority to review administrative acts; require public authorities to act as requested by the applicant; deliver documentation or expunge the record of administrative violations; to impose damages for delays in enforcing decisions and for the consequences of illegal administrative acts, including failure to respond to a preliminary petition in a timely manner. Moldovan law gives judges both contempt and subpoena powers. They have legal authority to control the behavior of persons in their courtrooms and to punish individuals for contempt. Anyone disturbing a court session is first entitled to a warning and then can be removed from the courtroom if he or she continues the disturbance. The court may postpone examination of a case or may simply remove parties or other persons who disturb the proceedings and fine those who show disrespect to the court. A prosecutor or an advocate who fails to comply with orders of the president of the session is entitled to a warning and, if he or she still fails to comply, the court may postpone the examination until the prosecutor or advocate can be replaced. [\[LINK\]](#) [\[LINK\]](#)

## 79: Are judicial decisions enforced by the state?

### 79 *In practice, are judicial decisions enforced by the state?*

**Score:** 25

**References:** The large number of unexecuted civil judgments in Moldova is a serious problem, which onerespondent described as discrediting justice. At present there are about 55,000 such judgments, some dating back to 1990. In some cases, of course, the legal system is not to blame - for example when the defendant lacks sufficient funds or property to satisfy the judgment. It should be noted that courts themselves are not presently directly responsible for the enforcement of judgments. Ordinary citizens who fail to do so face an administrative fine, while officials who do not comply are subject to a substantially greater fine. CODE ON ADMINISTRATIVE OFFENSES art. 200/11. If a judgment debtor fails to comply with the judgment, the court will, at the plaintiff's request, issue an enforcement letter. This authorizes judicial executors in the appropriate territorial subdivision of the Department for Execution of Judicial Decisions to enforce the judgment. CIVIL PROCEDURE CODE art. 347. [\[LINK\]](#)

**Social Scientist's Comments:** Despite efforts by Moldovan Government in the early years of independence to reform its justice system, the rule of law suffers serious shortcomings. [\[LINK\]](#) - 71k This is particularly true in the areas of judicial reform and the fight against corruption. Europe Criminal Law Convention in August 2007. The Republic of Moldova ... [\[LINK\]](#)

## 80: Is the judiciary able to act independently?

### 80a *In law, the independence of the judiciary is guaranteed.*

**Score:** YES

**References:** The constitution states that in Moldova 'justice is exercised in the name of the law only by judiciary authorities', art.114. Rights and freedoms are fully protected by the judiciary, and the right to defense is a fundamental right of all citizens. (art.26)

### 80b *In practice, national-level judges are protected from political interference.*

**Score:** 50

**References:** According to the Law on the statute of judges, No.544-XIII of July 20, 1995, judges are appointed based on objective criteria, such as passage of an exam, performance in law school, other training, experience, professionalism, and reputation in the legal community. While political elements may be involved, the overall system should foster the selection of independent, impartial judges. The president or Parliament may then accept or reject the nominations. Following rejection of a candidate, the Supreme Court may nominate the same or a different candidate for the position. Id. art. 19(4)

**Social Scientist's Comments:** The independence, transparency and efficiency of the justice system in the Republic of Moldova [\[LINK\]](#) Low public confidence has also affected the independence of Moldova's judiciary. [\[LINK\]](#) Moldova's judicial system is based on a network of local courts and higher-level appeals... The independence and the role of defense attorneys are limited. [\[LINK\]](#) -

### 80c *In law, there is a transparent and objective system for distributing cases to national-level judges.*

**Score:** NO

**References:** Distribution of cases to national-level judges is considered problematic by many international and national reports. It is therefore a good priority for the Ministry of Justice and the public authorities in Moldova to report progress. Nevertheless, this was equally presented in the European Commission Report, as a key-case for the implementation of the Action Plan EU-RM. See: Euromonitor, Adept Association, 2008 - [\[LINK\]](#)

**Social Scientist's Comments:** The constitution guarantees the right to appeal judicial decisions [\[LINK\]](#) Report Control on judiciary independence in the Republic of Moldova, OSJI/Freedom House Moldova, .... The random distribution of cases in law courts; ...[\[LINK\]](#) -

**Peer Reviewer's Comments:** According to the monitoring report of The Agency for Support of the Juridical Education and Law Authorities concerning judiciary anti-corruption efforts, the courts do not respect Clause 6 - The Principle of Randomly Distribution of Files of the law on judicial organization.  
[http://www.ade.md/img/pdf/RaportTrimestrial\\_III\\_engl\\_Ex-lege.pdf](http://www.ade.md/img/pdf/RaportTrimestrial_III_engl_Ex-lege.pdf)

**80d** *In law, national-level judges are protected from removal without relevant justification.*

**Score:** YES

**References:** Art.19 of the Law on the statute of judges stipulates the immovability of judges, except in cases provided by art.25. The Superior Council of Magistrates is the only organ which decides upon promotions and transfers of judges. (art.20.)

## 81: Are judges safe when adjudicating corruption cases?

**81a** *In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.*

**Score:** YES

**References:** No such cases have been reported.

**81b** *In practice, in the last year, no judges have been killed because of adjudicating corruption cases.*

**Score:** YES

**References:** No such cases have been reported.

## 82: Do citizens have equal access to the justice system?

### 82a *In practice, judicial decisions are not affected by racial or ethnic bias.*

**Score:** 75

**References:** No cases of racial hatred manifested by judges in courts or through their decisions have been reported to the press in the last years.

**Social Scientist's Comments:** In the third European Commission Report against discrimination in Moldova, there are some explicit notes on this subject. [\[LINK\]](#) [\[LINK\]](#)

'Pân în prezent, Moldova nu a adoptat o legislaie civil Åi administrativ mai larg care s combat discriminarea rasial. TotuÅi, ECRI noteaz cu interes c o coali ie de ONG, sprijinit de Misiunea OSCE pentru Moldova, a stabilit o strategie pentru promovarea msurilor antidiscriminatorii în Moldova. Unul dintreobiectivele principale ale acestei strategii este promovarea adoptrii unei legislaai cuprinztoare antidiscriminatorii în Moldova, care s acopere un mare numr de domenii, printre care rasa, culoarea, limba, religia Åi originea etnic.'

### 82b *In practice, women have full access to the judicial system.*

**Score:** 100

**References:** No gender discrimination is reported in Moldova. [\[LINK\]](#) [\[LINK\]](#)

**Social Scientist's Comments:**

### 82c *In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.*

**Score:** YES

**References:** Art.26 of the constitution stipulates the right to defense as guaranteed by the state. All parties have the right to be assisted by an attorney, chosen or provided in officio.

### 82d *In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.*

**Score:** 25

**References:** by law, official attorneys have to serve as attorneys in officio in order to respond to the growing demands from poor people in Moldova. Although the legal framework for protection of civil rights appears adequate, protection of these rights in practice is hindered by citizens' lack of awareness, their inability to pay the costs of litigation, crowded court dockets, and delays in litigations. See: [\[LINK\]](#) -

**Social Scientist's Comments:** [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#)

### 82e *In practice, citizens earning the median yearly income can afford to bring a legal suit.*

**Score:** 50

**References:** Given the average monthly salary of 1,700 lei (US\$164), attorney and court fees are quite expensive to ordinary citizens. Most citizens try to settle outside the judiciary institutions, by mediation or by giving up.

**82f** *In practice, a typical small retail business can afford to bring a legal suit.*

**Score:** 50

**References:** A small retail business may bring a case to court, but it depends against whom. Reports show that some judiciary will never sue the state or public authorities on claims of a simple citizen, and this is why most citizens who found their rights infringed have reported successful cases only in Strasbourg, in the European Court of Human Rights.

**Social Scientist's Comments:** [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) -

**82g** *In practice, all citizens have access to a court of law, regardless of geographic location.*

**Score:** 25

**References:** People from the countryside are definitely disadvantaged to appeal in a court of justice, because trials last a long time, and costs for transportation are extremely high. Social inequalities are disfranchising in fact the part of the population most vulnerable and affected by abuses. Even the provision of free-of-charge attorneys do not reduce the burden to the people in need. "Cu regret, sistemul judecatoresc functioneaza incet si implica costuri mari. .... Peste 70% din cetatenii nostri vor sa vada viitorul Moldovei in UE. ... [\[LINK\]](#)

**Social Scientist's Comments:** [\[LINK\]](#) - 31 [\[LINK\]](#)

**83: Is the law enforcement agency (i.e. the police) effective?**

**83a** *In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.*

**Score:** 50

**References:** Law on police, adopted on Dec. 18, 1990 By law, only people aged 17 and up, who attended specialization courses of the Ministry for Interior (art.19), can join the police. Selection is based on competition criteria. Often, executive top officials have used their prerogatives to call for radical cut-offs or for increases of the staff for police (i.e. road police), for demagogic reasons. [\[LINK\]](#)

**Social Scientist's Comments:** In 2008, the president decided to cut off 50 percent of the road police staff. It is unclear what criteria will be employed in this process.

**Peer Reviewer's Comments:** Starting with 2008, both the Customs Service of the Republic of Moldova and the Centre for Combating Economic Crimes and Corruption began recruiting publicly, and the results also are made public. <http://www.cccec.md/asd>, <http://www.customs.gov.md/index.php?id=48>.

**83b** *In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.*

**Score:** 50

**References:** Public financing allocated to the Ministry of Interior is insufficient, therefore ordinary police commissars have old-fashioned cars and receive prohibitive salaries. Inclination to take bribes is high, and ideological selection is just a rule. The budget for 2009 is transparent, but not sufficient. [\[LINK\]](#) - 41k

**83c** *In practice, the law enforcement agency is protected from political interference.*

**Score:** 25

**References:** Reforming the police has stagnated for the last decade, as the energy and resources are almost absent. Although there are several provisions providing facilities to the people entering the police (art.35, 36, 37: right to public housing, benefits for phone line installation, additional risk benefits), the legislation is usually not implemented. Police officers have the right to defend themselves in a court of justice, but this is not in fact a special right extended to them. [\[LINK\]](#) - 25k Important reforms are related to the strategy of central government reform, launched in 2005, (and still in the conceptualization stages) - [\[LINK\]](#) TI-Moldova shows that police and customs officers are still perceived as the most corrupted officials: [\[LINK\]](#) - 92k The public opinion is fearful that police is pursuing political interests - Dincolo de presiunile cunoscute ale Moscovei asupra politicii statelor foste .... Rezolvarea cazurilor de politie politica si eliminarea din noul serviciu ... [\[LINK\]](#) [\[LINK\]](#) -

**Social Scientist's  
Comments:**

[\[LINK\]](#)

**84: Can law enforcement officials be held accountable for their actions?****84a** *In law, there is an independent mechanism for citizens to complain about police action.***Score:** YES**References:** Art. 4 of the Law on police (No416 - XII of Dec. 18, 1990) stipulates the right of citizens to receive explanations from police officers about any case of limitations of their rights and freedoms. Citizens may file a complain against police officers and sue them. Art. 27 of the Law stipulates the reparation of damages produced by the police, and other forms of administrative or penal responsibility, in concordance with the gravity of the situation they have committed.**Social Scientist's Comments:** Citizens can appeal to justice whenever they feel their rights have been violated by police officers. They can request compensation.**Peer Reviewer's Comments:** The Prosecutor's Office is responsible for investigations of police actions. Additionally, the Ministry of Interior's internal investigation department takes complaints on police actions.**84b** *In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.***Score:** 25**References:** Cases of mistreatment and even torture of civilians by police officers are still present, despite the strategies adopted by the Ministry of Internal Affairs in Moldova. [\[LINK\]](#) [\[LINK\]](#) - 64k [\[LINK\]](#) [\[LINK\]](#)**84c** *In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.***Score:** YES**References:** Specialized training in the investigation and prosecution of corruption and other related offenses is not available on a regular basis in Moldova. Amnesty International reports serious cases when police officers provided ill-treatment, arrested without a warrant or manufactured cases. There are some specialized subdivisions for internal investigations.**Social Scientist's Comments:** Raportul Amnesty International "Moldova. Tortura \_i maltratarea din partea politiei: "Doar e normal"" din 23 octombrie 2007 (cover page) ... [\[LINK\]](#)**Peer Reviewer's Comments:** Every law enforcement institution (Center for Combating Economic Crimes and Corruption, the police, customs and the prosecutor office) has its own internal Security/Intelligence Department, which is in charge of investigating potential misconducts of its employees.**Peer Reviewer's Comments:** The Prosecutor's Office investigates action of the police and the Internal Department of the Ministry of Interior.

**84d *In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.***

**Score:** 50

**References:** Allegations about corruption cases are reported to the Center for Preventing and Curbing Economic Crimes and Corruption. Internal investigations are initiated at the order of the minister of Internal Affairs, when media exposes blatant cases. Local experts believe that governmental officials and the judiciary refuse to prosecute police officers who commit violations. The Center has opened its own hot-lines where citizens can report about cases known to them, and initiate investigations to curb the cases of corruption.  
www.investigatii.md www.alianta.md [\[LINK\]](#)

**Social Scientist's Comments:** Reports on the accomplished results/cases by the Centre are regularly published on its site: www.cccec.md. Regular monitoring reports of the Centre are provided to the public. Over 400 of economic and financial infractions have been discovered in 2008 by the Centre, according to the centre reports. Nevertheless, Moldova did not progress essentially on the way to combat corruption, stated Council of Europe officials - www.azi.md/ro/story/494.

**Peer Reviewer's Comments:** According to a monitoring report by the Center for Analysis and Prevention Corruption, an NGO, the CCECC Internal Security Division is rather efficient. Disciplinary sanctions have been taken against 177 customs officers, and 35 employees have been fired for corruption. Monitoring of internal intelligence services of customs, the prosecutors office and police were not performed.  
<http://www.info-prim.md/?x=99&y=19647>  
[http://www.ade.md/img/docs/Report-3d-quarter-2008-eng\\_CAPC.pdf](http://www.ade.md/img/docs/Report-3d-quarter-2008-eng_CAPC.pdf).

**84e *In law, law enforcement officials are not immune from criminal proceedings.***

**Score:** YES

**References:** Enforcement officials are not immune from criminal proceedings, but criminal trials are not easy to initiate. [\[LINK\]](#) [\[LINK\]](#)

**84f *In practice, law enforcement officials are not immune from criminal proceedings.***

**Score:** 50

**References:** Police is perceived as the most corrupt organization in Moldova. Low salaries and inhuman treatment of the detainees represent a common subject of many cases that affected citizens bring to external courts, such as the European Court of Human Rights in Strasbourg. [\[LINK\]](#)