

Global Integrity Scorecard:

Moldova

Moldova: Reporter's Notebook

By Alina Radu

On Jan. 15, 2007, Alexandr Kovali, 44, one of the richest people in Moldova, walked into the Appeals Court building in Moldova's capital, Chisinau. Entering this sparse building — against his will and under escort — was a change of pace for a man accustomed to luxury hotels and night clubs.

For 10 years, this former police officer had been a leader in his field, running a business in Moldova, Romania and Ukraine. Today his criminal file is riddled with indictments and evidence accusing him of trafficking women and children, heading a criminal organization, using forged documents and bribing many officials — all illegal acts according to Moldovan Penal Code.

An investigation determined that Kovali had turned six buildings into mini-hotels featuring rooms where intimate services were provided. When the buildings were searched, numerous weapons were discovered: six handguns, six rifles, 60 knives, 20 swords of different sizes, hundreds of cartridges of different calibers, and many gas and aerosol guns.

But the weapons were just the tip of the iceberg. The police also discovered 18 girls and young women, ages 16 to 27.

Several of the women found in Kovali's brothels were invited to speak out against him at the appeals court on that day in January. But, in their experience, the police didn't disturb Kovali or his business. Files were often opened against him that never ended in a conviction. As a result, the young women kept their silence.

During the hearing, a journalist outside the courtroom tried to take a picture of Kovali, but was held back by one of Kovali's escorts and threatened with detention.

"You are lucky that Mr. Nicolaev, the vice president of the Chamber, intervened, otherwise the reporter would have been arrested," said Major Mura, deputy commander of Guard and Escort Troupes Direction under Penitentiary Department. The message was clear: A journalist's rights to be present in a public space are not valid when "Sasha" or "Shalun" (Kovali's nicknames) passes through.

Moldova is known as one of Europe's primary sources of exploited women and children. And it is not very hard to find targets for exploitation, when every fourth Moldovan went abroad illegally and thousands of others are going to go the same way.

It's also known as the poorest country in Europe. The average monthly salary in Moldova is 1,697 Moldovan lei (US\$148), but its prices are near the European market level. The average salary is the same for policemen, judges and mayors, all of whom seek out extra money. Such abject poverty makes Moldova a breeding ground for human traffickers and a lost battlefield for victims of the phenomenon.

"I had to pay 4,000 Euros (US\$5,636) for my visa. I didn't know it was a false one. I paid to a tourist company that promised me to bring me to Italy, where my mother works as a babysitter," Lilia Catana says.

Catana and 12 other "tourists" were taken by car in the night through Ukraine to the Slovakian border. "They told us to stay silent in a cornfield near the customs office. I was shocked. I asked, 'Why have we paid so much money for that?' The man said we had to wait for his 'friend' to be alone in the customs office."

After an hour, Catana says, four of the women were taken to the customs office; others had to wait longer.

Police in Slovakia, Romania and Hungary have to deal with Moldovan illegals every day. Many are arrested because of forged visas or passports. However, news about arrested traffickers or customs officials is very rare.

According to Moldovan police data, every year about 300 cases are opened against people accused of human trafficking. The Moldovan Prosecutor's Office says about 200 files are sent to the judicial courts. About 50 result in convictions, and about 10 result in jail time for the convicted.

The Moldovan Department of Jails reports that the people convicted of human trafficking are mostly women. "I am a mother of two and I was looking for a job," says Ludmila Botnaru, who is serving 10 years in prison for human trafficking. A tourist firm offered her a job doing phone work, collecting information from young women who wanted to work abroad. She would pass the information on to her boss. "One day, the police called me and ask for a bribe," says Botnaru. "I said, 'I have no money.' They came and arrested me."

Many Moldovan politicians run "tourist" firms, as do the relatives of police officers, prosecutors and senior officials. Many of these firms are doing illegal businesses with forged passports or visas, yet enforcement actions against these well connected businesses are rare.

Kovali is allegedly just one of many profiting from human trafficking. Moldovan Minister of Domestic Affairs Gheorghe Papuc complains that bringing this phenomenon to an end is difficult, despite efforts to bring down Kovali and others.

On Sept. 5, 2006, Papuc wrote a letter to Moldovan President Vladimir Voronin that accused Kovali of recruiting underage girls from Ukraine, the Transnistrian region of Moldova and some other places, then forced them into prostitution.

Papuc believed people with a direct interest in the situation were using lawyers to influence the judges, ensuring Kovali's freedom. "The prosecutors, along with the judges in the Court of Buiucani district, are trying to delay the trials, therefore trying to free Kovali," Papuc said. His petition yielded no results.

After that letter was written, Moldovan media reported that Papuc himself had been involved in supporting a virtual brothel, broadcasting images of 15 girls in Moldova, while he served as Minister.

A new scandal in the Ministry of Domestic Affairs has recently come to light. Ion Bejan, chief of the Department for Fighting Human Trafficking (an organization that received \$5 million in U.S. government aid to fulfill its mission), was dismissed after being accused of cooperating with human traffickers. Bejan was allegedly Kovali's partner.

Despite the accusations and evidence, the criminal file on Bejan's corruption case didn't progress. Boris Poiata, the head of the prosecutor's office dealing with corruption, pointed out that the case was examined by the Centre for Combating Economic Crime and Corruption (CCECC). However, conflict of interest seemed to prevail: Certain people from the CCECC also worked at the Economic Police Office with Bejan.

Ion Vazdoaga, the director of the Centre for the Prevention of Women Trafficking and a lawyer for two underage victims who reported being exploited by Kovali, said this case discourages the fight against human trafficking.

Referring to his clients, he said, "The victims, who were underage at the time they were exploited, don't trust police and law-enforcing structures. They said that they heard many times that their former boss, Kovali, is friends with the police."

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 *Timputul*, 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 *Timputul*, 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.

Moldova: Facts

The Global Integrity Report provides a mix of qualitative and quantitative data. The Integrity Indicators, which provide a framework for qualitative reporting, also include detailed quantitative scores on 304 discrete measures of governance. To encourage comparisons between our data and existing international datasets, we have collected some of the latest and most relevant work and made it available for download here in an Excel spreadsheet. 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	65.00
Economic Freedom Index	59.47
Human Development Index	0.69
Bribe Payers Index	
Corruption Perception Index	2.80
Failed States Index	85.70
WBI: Control of Corruption	-0.65
WBI: Political Stability	-0.48
WBI: Government Effectiveness	-0.85
WBI: Voice and Accountability	-0.48
Combined Gross Enrollment Ratio for Primary, Secondary and Tertiary schools (%)	70.10
GDP per Capita(Constant 2000 US dollars)	492.18
Foreign Aid Per capita (US dollars)	49.00
Total Government Expenditure %GDP	29.00
Unemployment, total (% of total labour force)	8.00
Gross External Debt (US\$ millions)	2,599.00
Poverty Rate	48.50
GINI	33.20
Net Foreign Direct Investment inflows (as% of GDP)	3.10
Female Economic activity rate %	56.60
Life Expectancy	68.10
Legatum Prosperity Index (Material Wealth)	
Legatum Prosperity Index (Life Satisfaction)	
Religious Freedom	Yes

Moldova: Integrity Indicators Scorecard**Overall Score: 60 - Weak**

Category I	Civil Society, Public Information and Media	67	Weak
I-1	Civil Society Organizations	66	Weak
I-2	Media	70	Weak
I-3	Public Access to Information	65	Weak
Category II	Elections	57	Very Weak
II-1	Voting & Citizen Participation	85	Strong
II-2	Election Integrity	74	Moderate
II-3	Political Financing	12	Very Weak
Category III	Government Accountability	50	Very Weak
III-1	Executive Accountability	60	Weak
III-2	Legislative Accountability	44	Very Weak
III-3	Judicial Accountability	44	Very Weak
III-4	Budget Processes	51	Very Weak
Category IV	Administration and Civil Service	52	Very Weak
IV-1	Civil Service Regulations	48	Very Weak
IV-2	Whistle-blowing Measures	42	Very Weak
IV-3	Procurement	60	Weak
IV-4	Privatization	58	Very Weak
Category V	Oversight and Regulation	69	Weak
V-1	National Ombudsman	83	Strong
V-2	Supreme Audit Institution	88	Strong
V-3	Taxes and Customs	69	Weak
V-4	State-Owned Enterprises	38	Very Weak
V-5	Business Licensing and Regulation	69	Weak
Category VI	Anti-Corruption and Rule of Law	67	Weak
VI-1	Anti-Corruption Law	100	Very Strong
VI-2	Anti-Corruption Agency	79	Moderate
VI-3	Rule of Law	56	Very Weak
VI-4	Law Enforcement	33	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 No. 837-XIII of May 17, 1996, on Public Associations; Law No.581-XIV of July 30, 1999, on Foundations; Law No.521 XIII of June 7, 1995 ,n Philanthropy and Sponsorship.

Social Scientist's Comments: NGOs are free to decide on their structure and management; the legal acts stipulations on the structure and competence of organisations are minimal. According to them, NGOs may carry out any activity that is not forbidden by law, i.e. those related to the anti-corruption or good governance activities. They may set their goals and decide in the most appropriate way on the activities they want to perform.

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

Score: YES

References: Law on Public Associations: The NGOs activity can be checked by fiscal authorities; other entities authorized to perform controls of the NGOs work are the prosecutors office and the local authority i that has registered the organization. According to article 42 of the Law on Public Associations, other interferences in the NGOs activity are forbidden.

Peer Reviewer's Comments: Generally, the funding for NGOs comes in the form of: a) Entry fees and membership dues. b) Donations and grants. c) Revenues from public lectures, exhibitions, lotteries, sporting events, other kind of events. d) Revenues from economic activity. e) Income from legal civil acts. f) Income from external economic activity. g) Aid-in-kind and cash from sponsors and philanthropists, in compliance with the Law on Philanthropy and Sponsorship. h) Other cash not prohibited by law. The law does not make distinctions between foreign or domestic sources and does not specify any activity or conditions of the funding.

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

Score: NO

References: Anti-corruption / good governance CSOs may form coalitions striving for public-benefit goals. On the basis of their statutory commitments, they may undersign various kinds of ethnical codes, which may involve specific provisions related to the disclosure or undisclosed of sources of funding in undertaking their obligations. Legislation does not explicitly stipulate a legal obligation to disclose CSOs' sources of funding. Prosecution may undertake a legality control over the activities performed by the CSOs and, in case they do not correspond to the founding charter of the respectiev associations, this can draw administrative, material, disciplinary, criminal responsibility (art.42-43), according to the Law on Public Associations.

Peer Reviewer's Comments: Foundations and associations of public utilities are requested, by law, to declare their funding sources, but not other CSOs. However, most CSOs state they will respect transparency and ensure access to information, so, in theory, they should be willing to make public this sort of information. In practice, few are open and transparent.

Peer Reviewer's Comments: As a matter of fact, all financial operations - incoming and outgoing money - are performed via bank accounts. Therefore they can be easily tracked. There is no specific legal provision that obliges NGOs to disclose their sources to the public or the authorities.

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: 50

References: NGO Sustainability Index in Moldova (2005, 2006)

Peer Reviewer's Comments: The informal barriers for Moldovan NGOs still remain high, partly reflecting the overall nature of Moldova's highly regulated economy. The labor code, and especially access to information, as well as the organization of government structures, which include a voice from civil society, remain very constraining on CSR oversight as we understand it in the EU and the USA.

Peer Reviewer's Comments: Formal interaction is often the main barrier for the activities undertaken by CSOs. Given this situation, the results are merely the same as in the cases when direct or visible barriers are being used.

Peer Reviewer's Comments: I have not heard of impediments for new anti-corruption/good governance associations. However, I have seen media reports about barriers for constitutions of political parties and social-political movements that have declared the struggle against government corruption as their primary goal or if their leaders are well-known anti-corruption voices. The European Action Movement is just one example (see an interview with leader Anatol Petrencu for an investigative newspaper report at <http://garda.com.md/137/interviu/>).

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

Score: 50

References: Lilia Carasciuc, director, Transparency - Moldova Mihai Godea, director, Contact Centre

Peer Reviewer's Comments: There are many reasons why NGOs (CSOs) do not actively participate in the policymaking process, namely lack of funding, organizational capacity and skills. Moreover, the party structure in Moldova is not designed to accommodate these interests in the same way as in other countries and parliamentarians do not face the same kinds of pressures from NGOs that they face in the West. Even TI-Moldova, with its international clout, doesn't have access like it does in other countries.

Peer Reviewer's Comments: There is a problem with access to information in Moldova. As a journalist, I would like to add a few more references.

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: Carasciuc Lilia, director, Transparency - Moldova Mihai Godea, director, Contact Centre Alina Radu, Ziarul de Garda Newspaper Freedom House Reports (2003, 2004,.2005, 2006) on Moldova in Nations in Transit

**Social Scientist's
Comments:**

Although no organizations have been suspended for their anti-corruption activities, there were many journalists that have been warned, threatened or beaten in the last years for investigating various scandal-prone affairs, public acquisition flaws and other political corruption scandals, which brought no quick/effective actions from the prosecution. Those who intimidated mass media remained largely unknown or unpunished.

Peer Reviewer's Comments:

The government uses rather sophisticated tools to keep CSOs at a distance. It creates its own GONGs to undermine the credibility of other organizations in the field or it makes sure it has "its people" in various networks, alliances, or coalitions in order to ensure a certain level of criticism.

Peer Reviewer's Comments:

An additional source is the media report, "Investigative Journalists Won Lawsuit Against Rezina Town Hall," on the website of the Journalistic Investigations Center: <http://www.investigatii.md/eng/>

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: NO

References: Corruption in Moldova: Facts, Analysis, Proposals; Transparency International - Moldova (www.transparency.md/Docs.cor_mol.ro.pdf) www.realitatea.net - Arest la PRO TV Chisinau - Sept. 10, 2006

Social Scientist's Comments: Due to the highly sensitive effects of the anti-corruption campaign, authorities have frequently applied preventive measures against mass media activists to speed down their reporting, and even 'retain' (not arrest!) some of the journalists for 'prophylactic measures'.

Peer Reviewer's Comments: Investigative journalists were repeatedly issued "warnings," such as retention or filing civil actions, if they did not reconsider giving up certain subjects.

Peer Reviewer's Comments: I just want to clarify the idea: some activists experienced preliminary/temporary imprisonment, but no one was condemned.

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

Score: YES

References: 2006 Annual Report of the Centre for Independent Journalism on the Freedom of Expression and Information in the Republic of Moldova (www.ijc.md); www.investigatii.md/index - Declaration of the mass media organization on cases of intimidations of mass media activists by the employees of the Center for Combating Crime and Corruption (June 19, 2006); Interview with Petru Macovei, Association of the Independent Press - July 20, 2007

Social Scientist's Comments: Undesirable journalists have not been accredited by the public authorities concerned, which caused them to lose valuable information in exercising their jobs (Law on Press, 1994). This is often the case of the central administration, as well as of the Gagauz Regional Assembly (Edinaia Gagauzia, 2006). There were many appeals of the mass media associations against the prohibitive actions of the government, that attacked independent publications, such as Timpul, Jurnal de Chisinau, Moldavskie Vedomosti. In October 2006, Ziarul de Garda, one of the few investigative publications, stated that it is pressed by the authorities to stop investigations on several cases of corruption and judiciary control by the executive, and this was connected to other cases, where officials have proposed 'separate deals' with journalists to abandon their independent investigations. Two professional associations, API and CIJ, notified publicly the head of the Parliamentary Committee on Security and Public Order to research these cases of mass media intimidations, although no steps forward have been taken by the authorities. Several times, fiscal bodies exercise concerted actions that aim to intimidate and threaten the stability of mass media, which is conducting investigations on corruption and administrative abuses.

Peer Reviewer's Comments: In June 2004, the investigative reporter at the opposition's Timpul newspaper, Alina Anghel, was attacked outside her home by two assailants armed with a metal bar. She was hospitalized with a concussion and broken arm. Alina had written a series of investigative pieces on corruption among public servants.

Peer Reviewer's Comments: Independent journalists usually deal with investigative reporting and are generally critical of government. Intimidation against them is common, but in the past year, I know of no evidence that any of them suffered from physical assault because of a particular corruption investigation or in connection with a corruption-related article. Even the researcher did not mention above any "physical harm." Instead, he/she referred to "intimidation." The latest such attack happened, however, on Alina Anghel from Timpul newspaper, in June 2004.
See <http://www.iwfmf.org/press/8345>,
http://www.leipzig-er-medienstiftung.de/2006/03/01/alina-anghel/?p_lang_pref=en,
http://www.rsf.org/article.php3?id_article=10820, <http://canada.ifex.org/fr/content/view/full/59731>.

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

Score: YES

References: Annual reports of the Centre for Independent Journalism (www.ijc.md); The Association of Independent Press: No Killed Journalists in Moldova- (www.api.md)

4: Can citizens organize into trade unions?

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

Score: YES

References: Law on Trade Unions (NO.1129-XIV of 07.07.2000) Constitution of the RM (art42) - 'right to establish and join trade unions'

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

Score: 25

References: Igor Munteanu 'Trade Unions in Moldova: on the Cusp of Change or Collapse', edited and published in SEER (South East Europe Review for Labor and Social Affairs), Nomos Verlagsgesellschaft, Baden- Baden, Volume 3, No.2, July, 2000

Peer Reviewer's Comments: I think this indicator is trying to measure the extent to which businesses are able to engage in corruption and state capture as well as the pressure that labor unions bring to prevent this. Moldova, as a post-Soviet economy, has (overly) strong rules on business. Labor does not - and is not expected to - exercise the same level of oversight as it does in France or Italy, for example.

Peer Reviewer's Comments: Trade unions still suffer in terms of credibility and the Soviet-era perception that they are governmental tools to influence and organize people.

Peer Reviewer's Comments: There were attempts, however, from the government to control trade unions or to encourage laborers to join a union that is "cooperating" with the authorities.

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 (June, 15, 1994): Art.32(1) stipulates that freedom of speech is guaranteed to all citizens, as well as public speech, image and any other means of communicating free opinions. This right shall not, however, bring prejudice to the dignity, honor or rights of other individuals enjoying the same rights. The constitution prohibits only those activities that may contest or defame the state or the people, that may call to war or aggression, to national, rasial or religious hatred, incite to discrimination, territorial separatism, public violence or other kinds of actions that jeopardize the existing constitutional regime. Law on Press (243-XIII of 26.10.1994). Freedom of the press is a fundamental right protected by law, which shall contribute to the dissemination of free ideas, opinions, and appropriate information about the events. Censorship is strictly prohibited by law.

Social Scientist's Comments: Despite good legal provisions, mass media are not quite independent in RM. First of all, because of the economic limitations of a country in transition, second because of the often direct intervention of the governmental bodies in the work of independent press (prosecution, department for preventing organized crime and corruption, police).

Peer Reviewer's Comments: Media landscape is more and more restricted - several opposition media outlets were closed in 2006 and got privatized by persons close to ruling party. Other economic tools, such as redirection of advertising, discriminatory fees for newspaper printing and distribution are being widely used. Former state broadcasting company - Teleradio-Moldova still serves the interests of the Communists' Party and government, with opposition having basically no access to its news programs.

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

Score: YES

References: Law on Press (No.243-XIII of 26.10.1994). The law enshrines the basic rights to establish news agencies and any public or private publications in order to disseminate freely their opinions, to inform the population, and to guarantee access to information to all citizens. Censorship is prohibited (art.1, p.2), and the only limitations to free speach includes those that are required to protect territorial unity, public security, public order and health, human dignity and morality, state secrets, etc. The law guarantees a number of professional rights to the journalists in order to provide them institutional conditions to exercise their professional rights to inform and be informed in all aspects pertaining to their duties.

Peer Reviewer's Comments: However, there were cases when freedom of expression was limited. For example, prime-minister Vasile Tarlev criticized the "so called experts whom nobody invited to serve as experts" for "misinforming" European institution about the stage of implementation of the EU-Moldova Action Plan. Mr. Tarlev asked the Foreign Ministry to set up a list of bad experts and to invite them at a special round-table on this matter.

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: 50

References: Helsinki Committee Reports on Human Rights Situation - Human Rights at the Turn of the New Millennium in the Republic of Moldova, www.humanrights.md;
Centre of Independent Journalism, Annual Report for 2005 on freedom of speech and information in Moldova, www.ijc.md/publicatii/mlu/raport_anual_2006.pdf

Social Scientist's Comments: The law provides for freedom of speech and of the press; however, the government sometimes restricted these rights and on occasion intimidated journalists into practicing self-censorship. The government did not restrict foreign publications, but most were not widely circulated due to high costs. The print media expressed a wide variety of political views and commentary. The government owned a news agency; national and city governments subsidized a number of newspapers. The number of media outlets not owned and operated by the government or a political party increased, but many of these independent media remained in the service of, and secured large subsidies from, the government and political movements. In June 2006, authorities sold the two government-owned newspapers, Moldova Suverana and Nezaivismaya Moldova. The sale fulfilled one of the conditions put forward by the parliamentary opposition in return for supporting President Voronin's re-election in April. The two newspapers continued as independent publications but retained their pro-government stance.

Peer Reviewer's Comments: The Post of Moldova has monopoly over nation-wide press distribution and used increased fees against opposition/independent news papers.

Peer Reviewer's Comments: This is not correct: "authorities sold the two government-owned newspapers, Moldova Suverana and Nezaivismaya Moldova." None was sold. In fact, the authorities transformed them (on paper, of course) from state/government-owned into "publicly-owned entities", or "national newspapers," though they yet control the two publications. Because both are not competitive and employ loyal journalists, government from time to time makes financial donation in the form of "subsidies" - in return for positive articles about itself.

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: Broadcasting Code (No.260-XVI of 27.07.2006). The law stipulates the general conditions under which licenses are issued and operated by the existing private and public broadcasting Radio and TV companies in Moldova with the 'aim to protect the consumers to receive objective and correct information, to ensure editorial liberty and freedom of speech, on the basis of democratic norms and rules of conduct for the entire audiovisual/broadcasting space'. By this law, a National Broadcasting Council is entitled to monitor all wired TV and radio programs throughout the country, having the duty to adjust the functioning of the private and public stations, organize tenders for the receipt of media licenses, according to the law, and withdraw licenses, when this is decided by the National Coordinational Council. Every private or public broadcaster shall apply for two licences: a broadcasting license and a technical license. Art.38 of the Broadcasting Law stipulates a right that any decision of the

NCC can be challenged in justice by those who feel offended by their decisions and, in accordance to the law.

Social Scientist's Comments:

On the basis of a recommendation issued by the Broadcasting Coordination Council, as of Nov. 30, 2006, two municipal (one radio and one TV) stations have been privatized, and from Dec. 14, 2006, both stations were transmitted into the ownership of two influential political groups, with many irregularities committed in the privatization process. Although the employees of these stations have sued the Municipal Council Chisinau for this irresponsible decision of privatization, their situation remained unchanged. (2006 Monitoring report of the Centre for Independent Journalism - www.ijc.md/publicatii/mlu/raport_anual_2006.pdf).

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

Score: 75

References:

Art.23 of the Broadcasting Code stipulates exactly the necessary procedure to receive a license of broadcasting from the specialized body (Broadcasting Coordinational Body), which includes: financial sustainability, anti-monopoly conditions, type of ownership, organigram of the employed staff, type of programs, register of the equipment purchased for technical provision of the broadcasting activities, business-plan, etc. Broadcasters that propose to create and broadcast original production have an advantage. After receiving a broadcasting license, the applicants are free to apply for a technical license of broadcasting, within a six month-period.

Peer Reviewer's Comments: No license is required to publish a newspaper or magazine. The Press Law requires the registration of a legal entity with the relevant authority and the express mention about the right to print in the statute.

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

Score: 75

References:

Law on Mass Media (No.243-XIII of 26.10.1994); Annual Report for 2006, issued by the Centre for Independent Journalism on the Freedom of Expression and Information in the Republic of Moldova - www.ijc.md/publicatii/mlu/raport_anual_2006.pdf

Social Scientist's Comments:

Art.6 of the Law on Mass Media (No.243-XIII of 26.10.1994), stipulates that a print media license can be received from the Ministry of Justice, when one or more founders decide to establish a publication. When this activity is made in parallel with other economic activities, the publication shall be also registered as a private enterprise. Publications can be suspended if the prosecution (art.7) decides to control its activities and the judiciary finds a reasonable basis to support its claims. The law is not clear, however, about the specific reasons when a publication can be suspended or notified on 'inadmissible activities', therefore independent media groups have repeatedly contested the law for being too vague and unspecific, allowing authorities to use it sometimes for their political aims.

Peer Reviewer's Comments: No license is required, but the statute of the entity that prints the newspaper must clearly contain the right to print - which is approved by the Justice Ministry. The website of the License Chamber does not say a word about the printing activity (<http://www.licentiere.gov.md/ro/?activity=1>).

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: Politicians detect worsening of the mass media situation in 2006
www.social.moldova.org/stiri/rom Oleg Serebrian, chairman of the Social Liberal Party Eugen Musuc, chairman of the Social-Democrati Party, Ion Mereuta, chairman of the Humannist Party of Moldova, Nicolae Andronic, chairman of the Popular Republican Party.

Social Scientist's Comments: Most of the politicians and civil society leaders described the end of 2006 and the beginning of 2007 as a time of decline in the mass media independence. Although a new Broadcasting Code was adopted on July 27, 2006, it faced open criticism from the professional media organizations, which accused the governing alliance of setting obstacles towards the exercise of the media role in society. The new Broadcasted Code adoption was followed by changes in the Civil Code, which softened some possibilities for authorities to prohibit the activities of mass media, although it did not clarify the situation of the maximum penalties for 'defamation' or 'moral prejudices' that have been widely employed by some political authorities in the last five years to cancel or prohibit the work of some independent mass media, in particular of those running investigations against corrupt officials.

Peer Reviewer's Comments: Broadcasting licenses are often referred to as "business" of some members of the Broadcasting Coordination Council. Also, they serve as tools for political pressure on un-loyal media outlets. Arbitrary withdrawal of licenses brought international criticism of the regulatory body.

Peer Reviewer's Comments: A very good example is Vocea Basarabia Radio, whose chairman Valeriu Saharneanu (leader of Journalists Union and head of Euronova Media Group), had faced obstacles during the registration, during the license contest, and during the frequency contest. This station has been constantly harassed for its critical view of our government.

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: Broadcasting Code (No.260-XVI of 27.07.2006)

Social Scientist's Comments: If a license is denied by a decision of the Coordination Broadcasting Council, then art.23 of the Code disposes of the right to challenge decisions in a court of justice. There were no cases when contenders have successfully overrun a decision taken by the CBC.

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

Score: 25

References: newspaper Timpul Euronova Media Grup in Razboi cu CCA June, 10, 2005, No.234;
 Center for Independent Journalism, 2006 Annual report on the situation of the freedom of media and information
www.ijc.md/publicatii/mlu/raport_anual_2006.pdf

Social Scientist's Comments: Between 2001-2004, NBC rejected 55 applications for broadcasting licenses from the Euronova Media Group, which sued the BCC for this attitude eight times. The private broadcaster has demonstrated that most of the licenses issued by the BCC do not correspond to the criteria enshrined in the law, while the allocation of new frequencies were done usually in a 'friendly manner'. No favorable decision was taken for the Euronova Media Group so far. By 2006, the same group received 70 applications rejected by the BCC, and only with the change of the BCC in 2007 it got a license that only partially corresponded to its application.

Peer Reviewer's Comments: While the law contains specific terms for license issue, interests and pressure from government on the Broadcasting Coordinating Council lead to violation of those terms, with the Council being obliged to grant, to review, to reject, and to accept application regardless of the legal requirements. People close to the ruling party usually easily win the contests, while those with critical attitudes face delays and rejections.

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

Score: 50

References: Broadcasting Code (No.260-XVI of 27.07.2006)

Social Scientist's Comments: The costs of the licenses are reasonable; the unofficial costs to respond to the 'transactional' costs for getting licences are quite high.

Peer Reviewer's Comments: The average cost of a Radio license is \$5000, according to radio managers/directors. For TV is double.

Peer Reviewer's Comments: However, some costs are unjustified. For example, it is necessary to obtain a broadcasting license, and then a separate technical license, which sets no different or specific conditions for its holder. The requirement for applicants who have obtained a broadcast license to seek a further "technical" one appears to be an unnecessary bureaucratic measure.

8: Can citizens freely use the Internet?

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

Score: 100

References: NARTI Report (National Agency for the Regulation of the Transportation and Information); Annual 2006 Report on the freedom of press and information, Center for Independent Journalism www.ijc.md/publicatii/mlu.raport_anual_2006.pdf

Social Scientist's Comments: In 2006, the number of IT-users in Moldova doubled, according to the NARTI, and reached 459.900 users. Thus, the connexion to internet grew from 6,59 percent in 2005 to 13.55 percent in 2006. The GPRS/EDGE connection grew in 2005 by 26 percent, and reached 366.300 users. Investments in IT grew in 2005 by 16,8 percent and reached almost 80,5 million lei (US\$7 million), generally invested in new aquisitions of networking computers and new tehнологies. According to NARTI, on Jan. 1, 2007, in Moldova there were 760 of private companies authorized to deliver services of IT:. 234 transportation via ground cable and VSAT, out of which 41 were operational providers of internet access.

Peer Reviewer's Comments: Ive never heard of a site being banned or individuals tracked for obtaining/using the internet

Peer Reviewer's Comments: The government does not meddle anyhow in accessing online content. Partly because Moldova does not have a distinct online legislation (similarly to the Press Law or Broadcast Code), and partly because it does not have specialists to do so. However, the government does retain information of public interest that must be published online from viewers' eyes, but this is another issue to discuss.

8b *In practice, the government does not censor citizens creating content online.*

Score: 75

References: Nations in Transit - 2007, Edited by the Freedom House www.freedomhouse.org

Social Scientist's Comments: There were no cases of banning on-line content publications, although authorities used various tools to stop the publication of some outlets that were considered 'extremist' (see the case of Hyde Park Association in 2006 - Center for Independent Journalism Report). The same report illustrated the virtual attack on its site (www.investigatii.md), which included over 100 reporter investigations in all three languages spoken in Moldova, as well as documentary arhives and pictures of investigative teams of independent jouranlists. As a result of this cyber atack, the whole data-base contained on the site has been totally destroyed. Freedom House Report on mass media freedom showed a sharp decline of the mass media freedom from 1997 till 2007.

Peer Reviewer's Comments: Internet penetration and usage is so low that, even if there are a number of critical online publications, the impact not considerable in order to determine the authorities to take action against them.

Peer Reviewer's Comments: The cases of the Journalistic Investigations Center and the Hyde Park Association (presented by Social Scientists) are proofs of indirect censorship of the online contents.

Peer Reviewer's Comments: Partly because Moldova does not have a legislation for online business, and partly because the government is short of IT specialists.

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 26.10.1994) Constitution (art.32) - Freedom of Expression Right Constitution (34) - right to access information is counterbalanced with the obligation of mass media to provide correct information to citizens on public affairs and other issues of personal business, while avoiding to deliver any information that would hinder the national insurance/security or citizens' individual protection.
Social Scientist's Comments:	The Law on Press (1994), as well as the Broadcasting Code prohibits any kind of censorship, although there are many other forms of pressing/forcing mass media to give up an investigation when the risks are too high.
Peer Reviewer's Comments:	Criminal convictions for libel are still possible under the Criminal Code and there is no ceiling for fines. In this respect, the OSCE Representative on Freedom of the Media, Miklos Haraszti, noted that civil defamation penalties remain high and are often misused by public officials, and recommended the setting of a reasonable ceiling.

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

Score:	25
References:	2006 Annual Report on the Freedom of Press and Information, edited by Centre for Independent Journalism (www.ijc.md)
Social Scientist's Comments:	Former state-company, currently public company Teleradio-Moldova, is still perceived as a proxy of the central government, having being shortly managed to run 'positive campaign on accomplishments of the government', while harshly criticizing the opposition parties.
Peer Reviewer's Comments:	Self-censorship is widely seen as increasing among journalists and is being pointed at as a serious feature of media environment.
Peer Reviewer's Comments:	This is also the case of the "national" newspapers Moldova Suverana and Nezavisimaya Moldova. The most recent "acquisition" for the state-controlled media holding is Basa-press news agency, which was abandoned by all independently-thinking journalists. I also have an example of my own. This year I worked in a financial weekly [...]. Its editor in chief [...] has asked me to refrain from publishing a financial story about a decision of our parliament [...]. The article yet went published, but I had a severe conflict with [...], which owns the publication. I was forced to quit in July. [Edited to remove information which would identify the author.]

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

Score:	50
References:	2006 Annual Report on the Freedom of Press and Information www.ijc.md ; Newspapers December 2006, June 2007

**Social Scientist's
Comments:**

There were attempts to shut down independent media (Timpul, Jurnal de Chisinau, Ziarul de Garda) in 2004/2005 for having investigating corruption affairs in the government (public acquisition scandals). More difficult is with the mass media controlled by proxies of the government, which undertake direct censorship on the wired programs and publications, which, in reality, produce the effect of self-restraint or censorship, while only a few of journalists have protested against such a policy and left the company.

Peer Reviewer's Comments:

Censorship - direct and soft/indirect - is continuously reported as being present at Teleradio-Moldova. Items from Presidency are being sent to Moldova 1 to be inserted in the main news-program; Victor Stepaniuc, Communist MP, head of parliamentary commission for media calls the director of the company to inform about what and how subjects should be covered; prime-minister Tarlev criticized the company for not reporting enough about Governments' "accomplishments".
See Policy Brief - www.viitorul.md

Peer Reviewer's Comments:

I can't say the government prevents the publication of inconvenient material in proxy-owned media outlets - it simply does not employ unloyal journalists there. But it does harass and blackmails journalists whose organizations are critical of our authorities. ProTV crews are constantly barred from filming police scene or demonstrations. The latest attack was shown on TV on 19 October 2007 while a cameraman and a reporter from ProTV were shooting two officers removing a mentally-ill man from his apartment (news journal at 20:00).

10: Are the media credible sources of information?

10a *In law, print media companies are required to disclose their ownership.*

Score:	YES
References:	Law on Press (No.243-XIII of 26.10.1994). Broadcasting Code (No.260-XVI of 27.07.2006)
Social Scientist's Comments:	By law, publications may be established by one or more founders and co-founders, which then register their entity at the Ministry of Justice. Legislation allows a participation of no more than 49 percent of a foreign investor in the shares of a mass media publication.
Peer Reviewer's Comments:	However, this provision does not extent to the Moldovan owner, which can remain undisclosed.

10b *In law, broadcast (radio and TV) media companies are required to disclose their ownership.*

Score:	YES
References:	Broadcasting Code (No.260-XVI of 27.07.2006)
Social Scientist's Comments:	The Broadcasting Code requires that a foreign investor own no more than two private broadcasting companies in Moldova, therefore it is logical that the ownership is strictly monitored and can be disclosed. The Broadcasting Coordination Council does not publish regular reports informing the public about the ownership situation of mass media in Moldova, therefore, there is a general feeling of partial or lack of appropriate information and the reasons it takes decisions. While the law stipulates the necessary mechanisms for disclosure, the effectiveness of the law is severely constrained by poor implementation.
Peer Reviewer's Comments:	According the Broadcasting Code, a foreign investor or any other person cannot own more than 2 media outlets. BUT there is no obligation for the companies to disclose the ownership. I would not agree that this is severely monitored. On the contrary, there's a deficit of transparency over this issue, and only members of Broadcasting Coordination Council possesses information regarding the owners. At the moment, there are media reports saying that persons affiliated to Communists' Party own Antena C radio station, NIT TV station, Basa-press news agency, Moldpres-news agency, Moldova Suverana & Nezavisimaya Moldova news-papers.

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

Score:	25
References:	Mass Media Newsletter (June 2005) www.ijc.md www.investigatii.md
Social Scientist's Comments:	The overall picture is very colorful. There are groups of journalists which have adopted a western-approach towards readership, investigative journalism, deontological ways of conduct, unbiased reporting, etc, and other groups that parasite on proxy connections with influential business groups or governmental structures, thus playing the role of 'guarding dogs' against those who try to inform the public about some sensitive issues. In the latest case (Moldova Suverana, Nezavisimaia Gazeta), the language and accusations have followed usually a very aggressive stance. Black, denigratory journalism is regularly applied in elections campaigns, as an instrument of blocking the competitors.
Peer Reviewer's Comments:	Completely agree. Lets not forgot that "professional" standards are different even in US versus Europe. In Moldova, articles tend to be like advertisements.... but if that is the national norm, can we say that journalists are acting unprofessionally?

Peer Reviewer's Comments: Lack of professionalism is a key problem of media in Moldova. This is the reason why the Independent Journalism Centre opened the School of Advanced Journalism (<http://scoaladejournalism.md/en/>) in order to train current and future journalists. Professional practices are mainly being used by editors and journalists that are working for foreign media (BBC, Radio Free Europe, RFI) and not so much by Moldovan media. This is the main reason why journalists are not yet a powerful voice; rather weekend by criticism from government for low professional work.

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

Score: 25

References: Monitoring Report of the ODIHR Election Observation Mission
www.osce.org/documents/odihr/2007

Social Scientist's Comments: Key problems identified by the report persisted in both two rounds of elections, particularly related to media bias and intimidation of candidates, and the relevant authorities failed to take remedial action prior to the second round of elections (Ambassador Dieter Boden, Head of the ODIHR Election Observation Mission in 2007 for Moldova). Most of the monitored TV stations, i.e. publicly funded Teleradio-Moldova, continued to provide extensive news coverage of the activities of state authorities outside the campaign context, thus repeating the pattern observed before the first round of elections, which benefited pro-government candidates and limited opposition candidates' opportunity to convey their message to the electorate on an equal basis. Negative campaigning reappeared in mass media, with paid spots aimed against contestants in local elections, while state-owned newspapers, Moldova Suverana and Nezasivimaya Moldova, which received substantial subsidies from the state budget at the end of 2006, clearly supported the ruling party candidate in June 2007 local elections, and published harsh articles against his competitors.

Peer Reviewer's Comments: <http://www.eurasia.md>
see the link , news/publications for conclusions of domestic observers

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

Score: 0

References: Mass Media Newspaper (2004, 2005, 2006, 2007), edited by the Center for Independent Journalism www.ijc.md Veaceslav Ionita, member of the Council of Observers

Social Scientist's Comments: The formerly state-owned print outlets have been transferred in a non-transparent manner, without tenders, to some businesses associated with the ruling party, which allowed them to remain fairly loyal to the central government's core interests and ideology of the ruling party, the Communist Party of Moldova. Similarly, the transformation of the former state-owned Teleradio-Moldova has been faced with much resistance by the ruling party, which tempered and hindered the process of its restructuring. Although a Broadcasting Code established a new Observer's Council, its role is still weak due to the large number of proxies to the government infiltrated in this supervisory body, large dependence on subsidies authorised only by the government for its poorly managed activities, as well as of a lack of vision on mastering its public-responsiveness, as a key objective of reforming the public broadcasters in 2006.

Peer Reviewer's Comments: There is also a good website that provides information about elections and media coverage: www.e-democracy.md, which is run by the Association for Participatory Democracy.

11: Are journalists safe when investigating corruption?

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

Score: YES

References: 2006 Annual report on the freedom of press and information, edited by Center for Independent Journalism www.ijc.md

Social Scientist's Comments: Although no journalists have been arrested in the last year, several cases of intimidations, harrasments, policy ralies have been registered and reported in Moldova.

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

Score: NO

References: Reporters without Borders Leading SportsJjournalist Attacked, Left Unconscious www.rsf.org/article/php; Journalistic Investigations Center Launching of media campaign 'Journalists against Corruption' www.investigatii.md

Social Scientist's Comments: The Centre of Journalistic Research (CJR) is an active actor promoting its 'corruption folders' on-line, as well as via a highly sensitive media campaign in Moldova. in 2005, they issued a study 'The Corruption Folder', which is devoted to investigative journalists, as well as to policy actions. In 2005, Moldova was ranked 95 of 159 countries surveyed in corruption statistics. Mass media reports some cases of physical harrasment of the journalists by 'unidentified' persons (Alina Anghel - Timpul), or by other forms of subtle censorship (Timpul Newspaper was sued in 2003 by Daac Hermes, a company selling cars) for investigative articles on the affiars of selling a large group of expensive cars to the Government without the appropriate tender procedure, and the accusation was 'denigration'. Timpul lost all its cases internally, and only recently, in 2007, it won its case in Strassbourt, at the European Human Rights Court. But, it shall be stated that in 2003, Timpul was suspended, and its property was sequestrated, its journalists were harrassed by police, and security agents.

Peer Reviewer's Comments: There were no direct physical attacks on journalists since summer 2004. Journalists continue to receive threats via phone calls or letters, and face various obstructions and pressure, but no physical harm was reported in 2006/2007.

Peer Reviewer's Comments: No journalists who investigated corruption was physically harmed in the past year. Although I admit there might have been attacks on journalists, I do not have any evidence they were investigating corruption. There was an attack on Ion Robu last year, a sport reporter at Basa-press news agency. He indeed was in conflict with the government-loyal Sport Press Association, but he did not deal with any investigation. In fact, investigative reporting is persecuted by other means: financially and juridically.

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

Score: YES

References: Journalistic Investigations Center www.investigatii.md; Center for Independent Journalism www.ijc.md

Social Scientist's Comments: No journalists have been killed for their investigative work.

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 4.05.2000)
Social Scientist's Comments:	By law, a regulatory framework to access information of public use is provided.
Peer Reviewer's Comments:	However, officials are using formal answers when dealing with requests for access to information, so the result is similarly the same as in the cases when requests were being refused. The Law is good, but poorly implemented.

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

Score:	YES
References:	Law on the Access to Information (No.982-XIV of 11.05.2000) Law on Public Notifications/Petitions (No.190-XIII of 19.07.1994)
Social Scientist's Comments:	By law, any citizen may appeal to search, to apply, to receive and get informed on information of public use (art.4). This right can be limited only in specific cases, which are clearly stipulated by the law, in accordance with the international law and practices. Citizens may apply in conformity with the Law on Access to Information to receive in not more than 15 days a reply to their requested information, and if they are not satisfied with that, they may challenge the authorities' actions or inaction in justice, and expect that a judicial decision will redress their situation. In accordance with the law on petitions, citizens may notify the public authorities in writing, with the aim to receive a written reply from the competent authorities in no more than 30 days after the receipt of the petition; afterwards, if the petitioner is not satisfied with the answer received from a competent authority, he/she may appeal to justice.

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

Score:	YES
References:	Law on Access to Information (No.982-XIV of 4.05.2000)
Social Scientist's Comments:	Any document processed by governmental or public agencies can be requested, in accordance with the specified procedures, in which the applicants shall identify exactly the nature of the documents/acts, and the way in which the request is made. If applicants are not satisfied with how their requests have been addressed, they can challenge their actions or inactions in a court of justice.
Peer Reviewer's Comments:	Although the legislation does provide for the mechanism that enables citizens to request government records, in practice, the period to fulfil a request varies from one institution to another. Officials explain that this is due to the nature of request, nature of institution, burden of work, availability of staff etc. Under some aspects, the law is confused in this subject. For example, Article 37(4) of the Broadcasting Code says that the Broadcasting Coordinating Council investigates any request or complaint [...] within 15 days, but it is not clear whether the investigation begins or completes within this term.

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: 25

References: Access Info Association: 'Access to information. Regulations, Commentaries, Cases' www.acces-info.org.md

Social Scientist's Comments: As a specialized agency to monitor access to information rights, the Acces Info has presented a fully-fledged documented evidence on how the right to public information is met and addressed by the authorities, via an investigation that included almost all public organizations in Moldova. Only since Feb. 24, 2006, Parliament started to post on its institutional site records of the plenary sittings of the Parliament.

Peer Reviewer's Comments: Additional sources: "Trampled underfoot" and "Agonies of the press" on www.investigatii.md

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

Score: 50

References: Vasile Spinei, director of the Acces Info Association (5.07.2007)

Social Scientist's Comments: According to the law (art.20), the fees to be paid are stipulated by the internal regulations of the state agencies where the information is requested. Therefore, there is no single-cut procedure, setting the maximum or minimum levels of taxes for this kind of services. The same article stipulates that the maximum level of these fees will not exceed the total quantum of expenditures for copying, mailing or translating the requested materials, in order to keep into reasonable ratio the fees required by the agencies. In fact, it is not the high-cost of fees that make the access to public information difficult, but particularly the often disregarded terms for the provision of requested information, lack of experienced staff to communicate with the public, as well as slow reaction of the judiciary in addressing the concerns raised by citizens.

Peer Reviewer's Comments: Generally, the law says the size of the fee is equal to printing/copy/translation + paper costs, except for analytical and statistical reports (Art.20(3)). In practice, there is a very low public awareness regarding the costs for the release of information of general public interest. And this shortage of knowledge is used sometimes by public officials to milk citizens out of money. However, I would rate this sub-Indicator less dramatic.

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

Score: 25

References: Vasile Spinei (Acces - Info Association), 17.07.2007

Social Scientist's Comments: There are important discussions concerning the adequate regulatory framework to define what is 'state secret' and 'commercial secret', as these terms are continuously used by the state officials to deny requests of receiving access to information from citizens. Harmonization of the Law on Access to Information is contradicted by several laws and regulations, such as: art.316 of the Criminal Procedural Code (no.122 of 14.03.2003) and the Law on the Organization of the Judiciary (art.14 - No.514-XIII of 06.07.95), etc.

Peer Reviewer's Comments: Yes, completely agree. Everything is a state secret for these guys!

Peer Reviewer's Comments: The right name is Access-Info Centre.
Court officials admit serious delays when dealing with access to information cases. There are three layers in Moldovan judiciary that have to be passed in order to obtain a final decision. Often, this means 1,5 - 2 years of hassle.

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

Score: 25

References: Law on Access to Information (No.982 - XIV of 11.05.2000) Law on Petitions (No.180-XIII of 19.07.1994)

Social Scientist's Comments: Citizens shall follow the procedures set up in each state/public institution separately. Usually, the procedures for requesting and receiving any information differ greatly among organizations, therefore citizens shall stay for days/hours in line to be received in audience, and only after clarifying 'how the things are going' there, one may get to the right idea about how to apply to the respective institution. Most of the state agencies and regulatory agencies have established their websites, although they have limited interactive interfaces, which would allow citizens to speed up their procedures and requests, while particularly the most wanted information is kept outside of the website content, serving the bureaucracy to keep its leverages of influence, and civil society activists at low profile.

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

Score: 25

References: Law on Access to Information (No.982-XIV of 11.05.2000) Law on State Secret (No.106-XIII of 17.05.1994) - Monitorul Oficial No.2/5 of 25.08.1994 Law on State Security (No.618-XIII of 31.10.1995) - Monitorul Oficial No.10.11/117 of 13.02.1997 Law on the Structures of State Security (No.619-XIII of 31.10.1995) - Monitorul Oficial, no.10/11/115, of 13.02.1997

Social Scientist's Comments: The government officials may reject applications from citizens if they consider that the requests contradict the provisions of the Law on State Secret or the Law on State Security. There were not penalties imposed on public officials that have denied access to information to citizens requesting officially, therefore civil activists are quite skeptical at this point. It is believed that the progress is slowed down because the civil servants are unprepared and/or fear to lose their jobs in case they will provide 'unnecessary' information to the public, as well as because of the lack of civic education among citizens.

Peer Reviewer's Comments: "State secret" is the most used reason.

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 RM (1994) - Art.38 The 'will of the people is the basis of state power'. This will is expressed through free elections, which are conducted regularly via universal, equal, direct, secret and freely expressed elections. Election Code (No.1381-XIII of 21.11.1997)

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

Score: YES

References: Election Code (No.1381-XIII of 21.11.1997) stipulates specific conditions under which parliamentary elections and local elections are held regularly, at every four years, intermitently, being supervised by a Central Election Commission.

Social Scientist's Comments: In case elections do not bring relevant results, the Central Election Commission may decide to hold new or repeated elections, according to the legislation, in order to ensure that the free will of the voters is fully taken in consideration. The results of elections are validated by a court's decision, providing opportunities to the contestants to challenge this decision in an upper court.

15: Can all citizens exercise their right to vote?

15a *In practice, all adult citizens can vote.*

Score:	75
References:	Constitution of RM (1994) - art.38 stipulates the right to vote and be elected to all citizens of the RM age of 18 years by the day of elections; the sole exception refers to imprisoned people.
Social Scientist's Comments:	Citizens that live and work abroad cannot participate in elections, because legislation does not allow mailing voting system, while the existing consular offices are not sufficiently present in those countries where there are large communities of Moldovans working legally or illegally.
Peer Reviewer's Comments:	Another impediment is that citizens must vote in the locality where they are formally registered as residents. People who are elsewhere but their official residence at the time of voting may not be allowed to vote.

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

Score:	75
References:	Coalition 2005, 2007 Monitoring reports on elections Election Code (1381-XIII of 21.11.1997)
Social Scientist's Comments:	Voting is expressed secretly (art.6 of the Code), thus avoiding influences of the electorate. Voting is made in specially-furnished spaces/rooms, where secret voting can be ensured, and where every voter may vote in separate cabins, orderly, under strict supervision of the precinct's election commission, in accordance to the procedures stipulated by law.
Peer Reviewer's Comments:	In practice, intimidations are widely used to limit the secrecy of votes. In local elections of 3 June 2007 the set-up for voting within polling stations was inadequate, and the capacity of ballot boxes insufficient for the number of ballots cast. Also, the practice of purchasing votes was evident. Campaigning in favor of Communists' candidates was present on E-day. Also, there were cases when voters were asked to show with whom they voted (by Communists' members).

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

Score:	75
References:	Election Code Constitution of RM
Social Scientist's Comments:	Elections are generally held according to a regular schedule. Parliamentary elections are called by the CEC with three months prior to the termination of the mandates of the incumbent legislative chamber (101 MPs), according to art.76 of the Code. The date of elections is set by the Parliament with at least 60 days prior to the date of elections. In case of the Parliament dissolution, a presidential decree deciding this will also include the date for upcoming elections (art.76). The date for local elections is set by the Parliament, with 60 days before the elections, and three months before the termination of the mandate of the local governmental officials.

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: Constitution of RM (1994) Law on Political Parties (No.718-XII of 17.09.1991)

Social Scientist's Comments: By law, citizens can freely join parties and social-political movements, which contribute to the crystalization of the political will of citizens in elections. Parties are equal before law, and the state shall provide fair and equal conditions of treatment to all political entities registered according to the law. The legislation prohibits explicitly those parties that aim to curb political pluralism, principles of the state of law, sovereignty and territorial integrity of the country. Secret associations are equally prohibited by law, and so are the parties formed by foreign citizens.

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

Score: YES

References: Constitution of the RM (art.39) - Right to Administration

Social Scientist's Comments: Citizens of RM have the right to participate directly in the administration of public affairs, or by their representatives. Each citizen has a protected right to compete, in accordance to the law, to a public function, while specific legislation (Law on Civil Service, Law on Public Local Administration, Law on Government, etc) specifically define the general conditions for competition, as well as for running these functions.

Peer Reviewer's Comments: According to a draft law, citizens who hold double citizenship (allowed by Constitution) will not be eligible to run for public functions (including Parliament, Presidency, Government and local government).

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

Score: 50

References: Law on Political Parties (No.718-XII of 17.09.1991); Azi news European Action Movement considers its rights continue to be violated rudely May 2, 2007 www.azi.md/news -

Social Scientist's Comments: Although in general political parties may act and develop more or less freely in RM, there were certain hindrances posed by the Ministry of Justice for the registration of the European Action Movement in 2007, which retained the statute, program and lists of members for 'routine controls', and that was perceived as a purported action to block the Movement to participate in local elections of 2007. So, the Ministry of Justice delayed registration of the association from November 2006 till May 2007, and did not even accept its registration.

Peer Reviewer's Comments: Other political parties (Party for Social Democracy, Centrist Union and Social-Democratic Party) that expressed their will to merge spoke drew attention to the fact that a new registration of the party will face obstacles and delays in approving the list of members and their signatures

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

Score: 50

References: National Report on Human Development (2006), done by UNDP in Moldova

**Social Scientist's
Comments:**

Public service remains untransparent, over-bureacrized and with little attraction to young specialists. Salaries are dismal, and the recruitment of new public officials is usually done in strong disagreement with general recommendations on public sector reform, under strict guidelines of the ruling party ideological predilections. Corruption and clientelle-based decisions have certainly kept at arms distance young and talented managers, who preferred to run for private jobs or for positions within multi-national companies or international representative offices, which are much better paid.

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

Score: 100

References:

Central Electoral Commission: www.cec.md;
ADEPT independent election information web site: www.alegeri2005.md;
Prodemo independent election information web site:
www.elections2005.prodemo.md;
Social Democratic Party web site: www.psdm.md;
Christian Democratic Popular Party web site: [\[LINK\]](#);
Democratic Moldova Bloc web site: [\[LINK\]](#)

**Social Scientist's
Comments:**

In practice, there are more than one political parties represented in the Parliament, in which 55 mandates belong to the members of the Communist faction (CPM), while the rest are divided among mainly right-centre and centre-sided political parties (AMN, PPCD, PD, PSL, PDS).

Peer Reviewer's Comments:

Actually, as funny as it sounds, all parties but one (Communist) stay in the opposition camp.

17: In law, 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 21.11.1997)

Social Scientist's Comments: A central election commission is the main specialized body in implementing legislation in Moldova. With 55 days before the election date, the CEC is responsible to organize and set up the election precincts and election districts that are directly in charge of the organization of elections throughout the country.

18: Is the election monitoring agency effective?

18a In law, the agency or set of agencies/entities is protected from political interference.

Score: YES

References: Election Code (art.16)

Social Scientist's Comments: According to the Code, the CEC has nine members. They are approved by Parliament, and they have been appointed in the following way: one from the presidency, one from the government, and seven members from the Parliament (i.e. five members to be delegated by opposition parties, proportional to the number of seats of MPs). Political influence is therefore present by definition within the structure of the Central Election Commission.

18b In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

Score: 25

References: Declarations of political parties concerning the work of the CEC during local elections of 2007: www.e-democracy.md

Social Scientist's Comments: The appointed members of the CEC have, generally, divergent agendas. They are therefore appointed to deliver messages that represent the official positions of their delegative agencies, and have little room for independent/professional standards of behavior.

Peer Reviewer's Comments: Often, members of the CEC do not have knowledge and expertise in the field, and they serve directly the interests of the party that appointed them. There is also a conflict of responsibilities among the CEC and the courts ruling decision on election-related cases. So, although in law, the CEC is independent, de facto, is yet a body subject to political interference.

Peer Reviewer's Comments: There is little presence of civil society groups in the CEC. Because CEC members are appointed from political parties / alliances and official institutions, the interests of the voters are neglected sometimes. In communes Zorile and Buteni, noncommunists won the polls, but the communists successfully disputed the election result. The voters came in corpore at the CEC headquarters to support the winning candidates, but their opinions were disregarded (http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Activity523).

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

Score: 75

References: Election Code (1997)

Social Scientist's Comments: In addition to its full-fledged nine members, which are immovable according to the law, the CEC is further assisted by a small permanent staff, whose number and salaries are established by a simple decision of the CEC, on the basis of a budget approved by the Parliament.

Peer Reviewer's Comments: Many members defend the interests of their appointing parties / institutions, and then their professionalism fades and makes room to syndicate interests.

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

Score: 50

References: Mihai Godea, director CONTACT Center, secretary of the Coalition 2005, 2007; Official Web Page of the CEC - www.cec.md

Social Scientist's Comments: The CEC do present some reports to the public on the election results, on the behavior of election actors, or obstacles they've met in the most recent elections. They have no effective tools to monitor party finance in elections, nor to restrain the party in power from using and abusing administrative leverages and resources, therefore, despite some progress registered in the last 3 years, CEC is not still perceived as a strong palyer setting the rules of conduct in a fair way in or prior to elections.

Peer Reviewer's Comments: Although the current CEC is more open to cooperate with CSOs, it is still far from being transparent, especially in terms of disclosing data on voters.

Peer Reviewer's Comments: Although with delays, CEC publishes the reports. Its sessions are public and its members can be contacted anytime. See section HOTARIRI and TELEFOANE DE CONTACT at <http://www.cec.md/i-ComisiaCentrala/Main.aspx>.

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

Score: 25

References: Coalition 2007 Election Monitoring Report: www.alegeri.md/en/2007/coalition2007/ - Irregularities are reported throughout the day - June 17, 2007 - Observers are reporting irregularities in the voting process - June 17 - The voting process of June 17 is marked by incidents in Corjova - June 17 Local elections of June 3 largely did not comply with international standards for free and fair elections - on the results of the monitoring of mass media during general and local election campaign in Moldova Statement on the abuses of the police forces

Social Scientist's Comments: Penalties for violations of the Election Code (art.69-71) have been never enforced. Even the control over the financial means spent during a campaign are not verified accordingly by the election body.

Global Integrity Report: Moldova

Peer Reviewer's Comments:

Not one political party or candidate has been ordered to publish the election spending bill or the personal income & property report. And CEC has never confronted the ruling party, which the media has credited as the biggest spender.

19: Are elections systems transparent and effective?

19a *In practice, there is a clear and transparent system of voter registration.*

Score: 25

References: Coalition 2007 Monitoring Report: www.alegeri.md/en/2007/coalition2007/; ODIHR/OSCE Monitoring report on local elections in 2007: www.osce.org/documents/odihr/2007/

Social Scientist's Comments: A significant number of complaints on the first round and second round were filed with CED, DEC's, and courts on a broad range of issues related to voting, counting, and the tabulation of results. Lacking clear regulation on recounting, different procedures were followed by the courts and DEC's. Despite inaccuracies noted in the first round of elections, voter lists remained unavailable for public review at the majority of polling stations in the June local elections in Moldova. International observers noted that the lack of legal provisions and clear deadlines applicable to second round contests hindered the preparations for the run-offs and resulted in inconsistent practices.

Peer Reviewer's Comments: There was only one civic education promo at Moldova 1 (TV public station) and no electoral public debates. The so-called debates were harshly timed so that candidates had 50 seconds to present their point of views, but no real interaction between them was possible. A lot of young people were deprived from information on the lists and which voting pool they were supposed to vote, as well as from information on voting procedures.

19b *In law, election results can be contested through the judicial system.*

Score: YES

References: Election Code (1997)

Social Scientist's Comments: Arts.65-68 includes all cases where voters may contest the results of the elections by appealing to a judiciary court.

19c *In practice, election results can be effectively appealed through the judicial system.*

Score: 50

References: OSCE/ODIHR and Congress of Local and Regional Authorities Monitoring Report on Local elections in Moldova: www.osce.org/documents/odihr/2007

Social Scientist's Comments: The lack of legal provisions and clear deadlines applicable to second-round contests hindered the preparations for the run-offs and resulted in inconsistent practices, said the Declaration of the ODIHR monitoring local elections in 2007.

Peer Reviewer's Comments: As I mentioned in a previous indicator, though voters from Buteni in corpore came to dispute the decisions of CEC and blocked roads leading to their village, their opinions were disregarded and their complaint was rejected.

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

Score: 75

References: newspaper TIMPUL, CEC a solicitat colaborarea cu SIS in ziua alegerilor locale June 29, 2005

Social Scientist's Comments: Military interventions in the political cycles have not been reported, although frequent claims that special services serve to the ruling party in running campaigns have been repeatedly echoed by opposition press (Timpul, Jurnal de Chisinau). For instance, CEC has specifically invited (publicly) SIS - Intelligence Services - to ensure 'good communication' between CEC and its precincts in 2006.

Peer Reviewer's Comments: Police forces retained the PROTV reporter on 27 March, in the pre-electoral campaign and took him to the section, for identification, although the reporter had his press credentials with him. The DTV cameraman was forced to demagnetize his video tape - all this happened while they were filming a march organized by the opposition Liberal Party, whose candidate became mayor of Chisinau in June. Also, the Interior Ministry is totally placed under the Presidency/Communists' Party Control (president Voronin is a former Interior Minister) and they intervened in favor of Communists candidates.

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

Score: YES

References: Election Code (1997)

Social Scientist's Comments: Art.63 stipulates the right of the CEC to confirm the mandate of observers to citizens of the Republic of Moldova, as well as to foreign citizens, who are delegated officially by international organizations. CEC has the right to consider and deliberate on the organizations which are accepted to delegate their members as observers in elections, in accordance with their specific qualification, prior experience, commitment to democratic standards and values, etc.

Peer Reviewer's Comments: While CEC indeed has not refused any party to send representatives and observers, the government refused to allow Russian monitors into Moldova in March 2005. This did not happen in the past year.

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

Score: 50

References: Coalition 2007 Monitoring reports www.ladom.org.md

Social Scientist's Comments: Election monitoring is implemented in Moldova on a regular basis, in accordance with general practices and standards, largely by LADOM, as well as other human rights organizations, which have the experience and potential to get mobilized quickly and effectively on the day of elections. Monitoring is usually done on short-term, for the day of elections, although other kinds of monitoring (mass media, administrative violations by the competitors) is also a form of active participation for the civil organizations in Moldova. Sometimes, however, the cases of observer's rights infringement are not duly due to the misbehavior of the election bodies, but because of the poor understanding of the rights the observers have during elections.

Peer Reviewer's Comments: My Google search of election monitoring in Moldova had numerous cases where CIS observers were thrown out and complaints by OSCE...

Peer Reviewer's Comments: Domestic observers faced various obstacles in fulfilling their duties on Election-Day and second tours. They were not allowed to walk/move inside the station/leave their chairs, which made impossible adequate observation of the voting procedures. A lot of complaints and recommendations on observers' side were simply ignored by the polling station electoral offices. See www.alegeri.md

Peer Reviewer's Comments: Opposition representatives sometimes are unable to receive all the information from the chief of the polling station, or some of their observations are not included in the final report (www.ladom.org.md, www.e-democracy.md, www.eurasia.md, www.alegeri.md).

20: Are there regulations governing political financing?

20a *In law, there are regulations governing private contributions to political parties.*

Score:	NO
References:	Comments on the draft Law on Political Parties of Moldova Heinrich Vogel, Venice Commission of the Council of Europe www.venice.coe.int/docs/2007/CDL-AD
Social Scientist's Comments:	There is a draft on financing political parties, which has not been yet adopted by the Parliament. There were no mechanisms to enforce financial oversight and enforceable control to safeguard the implementation of funding-related provisions in Moldova. The new legislation is supposed to bring sanctions proportional to the violations of financial management procedures.
Peer Reviewer's Comments:	Private contributions are not mentioned in the law, therefore these are legal. Only Article 12 of the Law on Political Parties and Social-Political Organizations contains an indirect reference on private contributions: it prohibits the financing from foreign individuals and legal entities (either public or private). It also bans contribution from joint ventures where the state or foreign founder(s) controls more than 20 per cent.

20b *In law, there are limits on individual donations to candidates and political parties.*

Score:	NO
References:	Law on Political Parties (No.718-XII of 17.09.1991)
Social Scientist's Comments:	Funds for running political parties are created from the membership fees paid by its members, profits from mass media companies or TV stations, selling of leaflets, branded products, private/physical donations (art.12). No foreign financing is allowed for the political parties in Moldova.

20c *In law, there are limits on corporate donations to candidates and political parties.*

Score:	NO
References:	Law on Political Parties (No.718-XII of 17.09.1991) Code on elections
Social Scientist's Comments:	Art.10(12) prohibits explicitly financing from external sources for political parties. The same prohibitions are applied to financing from public organizations, joint ventures in which the state shares exceeds 20 percent, unregistered citizens groups, unidentified individuals, foreign individuals or organizations residing abroad. There is no mention of the limitations on corporate donations otherwise. External sources mean bylaw 'outside of the country sources'. A new draft of the law on party financing attempts to restrict the financing from corporative sources (inside of the country), providing only the state with the responsibility to finance parties, which shall also rely on membership fees, but it is quite unclear at this point whether this will be a fair option, accepted by the political class, and pertaining to the political realities/realms of the democratic process.
Peer Reviewer's Comments:	The author alone mentions the restrictions above, so the score should be YES (the question does not ask specifically about private or public corporations).

20d *In law, there are limits on total political party expenditures.*

Score:	NO
References:	Law on Political Parties (No.718-XII of 17.09.1991) Election Code (No.1381-XIII of 21.11.1997)

Social Scientist's Comments: There are no limits to the total political party expenditures, overall, and perhaps with the adoption of the new Law on Political Financing (still a draft under consideration), this will be settled. Art.35 of the Election Code sets up the limits of the financing provided by law for certain election campaigns, and the total ratio is decided by the Parliament through the state budget prior to the upcoming election year. Election competitors may receive loans for their election campaigns from the state, which shall be returned in case they have not succeeded to collect sufficient votes (!) Election competitors who received less than 3 percent of the votes expressed in elections shall return the loans in no more than three months from the date of elections. Parties and individual candidates shall present regular (weekly) evaluations of the way they have spent/are spending their state-delivered resources in election campaigns, and CEC/Ministry of Justice are entitled to verify the actual spending.

Peer Reviewer's Comments: If the exception in Article 35 of the Election Code does not count, then the answer is NO.

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

Score: YES

References: Law on Political Parties Election Code

Social Scientist's Comments: Art. 38 of the Election Code stipulates exact conditions through which individual or corporate donations can be transmitted to political candidates and parties.

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

Score: NO

References: Election Code

Social Scientist's Comments: Art.38 of the Election Code stipulates that election candidates (parties or individuals) shall open up a special account in a bank with a title 'election fund', and all donations for campaign shall be accumulated there. The respective bank will inform accordingly the CEC on the money received by candidates and, on the basis of its full-fledged mandate as supervisor and implementor of the election legislation, CEC may request the Auditing Court and the Fiscal Inspectorate of the Ministry of Justice to undertake a financial control over the resources legally received by election candidates, correct evidence of the transfers, and their appropriate use.

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

Score: NO

References: Law on Political Parties

Social Scientist's Comments: There is no agency that is in charge with monitoring the political financing in Moldova. The tax inspectorate does have the competence to verify the accountant's reports of the parties as legal entities, but cannot be seen as a 'specialized agency', which exist in other countries, aiming to restrain election actors from corruption, abuse of resources, etc. The Central election commission, which IS a specialized body may only request presentation of the reports from parties, but it does not have the authority to oversee the fairness of their content, while fiscal bodies does not care about the specific purpose of parties (as non-commercial entities).

Peer Reviewer's Comments: Again, this is an issue to be solved with the new law on financing the political parties, currently under review in the Parliament.

Peer Reviewer's Comments: There is no SPECIAL agency to handle this issue. However, Article 27 of the Law on Political Parties and Socia-Political Organizations says that it is the Fiscal (Tax) Service which is in charge with the verification of parties' sources of income, of their income size, and of the way parties comply with the fiscal legislation.

Controlul asupra surselor de venituri ale partidelor, ale altor organizatii social-politice, asupra mrimii mijloacelor primite de ele _i asupra îndeplinirii cerincelor legislaciei fiscale este exercitat de ctre organele fiscale.

21: Are the regulations governing political financing effective?

21a *In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.*

Score: 25

References: Coalition 2005, 2007 monitoring reports: www.alegeri.md/en/2007/coalition 2007; Political Corruption, IDIS, Cartier Publishing House, 2000 Lilia Carasciuc, director, Trransparency International - Moldova; Interview, June 2007

Social Scientist's Comments: Political financing is one of the less studied and tenebrous field of activities for political parties. Money in politics are in general collected unofficially, with great incentives from the black/hidden economy sources, and large potential for corruption or ambiguous impact on the political process or party-construction work.

Peer Reviewer's Comments: Given the fact that even a legal framework doesnt exist to regulate campaign contributions, its unlikely physical or moral persons are imposing limits on themselves...

21b *In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.*

Score: 25

References: Law on Political Parties Election Code

Social Scientist's Comments: The main documents regulating today the financial activity of political parties are largely unsatisfactory to the party-building process in Moldova. The law does not prohibit the use and abuse of administrative resources, while weak judiciary has limited operational capability to intervene when blatant violations from the incumbent state officials appear in the electoral and extra-electoral process. Voters are bribed with generous contributions from the state budget, to the benefit of political parties; state officials use media groups controlled by the government, and limited space for the opposition forces hinder pluralistic foundations of the political regime.

Peer Reviewer's Comments: if no limits in law, no limits in practice.

Peer Reviewer's Comments: Local businesses are ordered to contribute financially - otherwise, they will face control next day from the Fiscal Inspectorate or Economic Police. Foreign investors are also requested to finance various social activities carried out by the Communists' Party. They are not being told the exact amount (as in the case of Moldovan businesses), but it is a common practice among foreign investors to contribute with something, in order to avoid hassle or even harassment.

21c *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: Election Code

Social Scientist's Comments: Most of the political parties use only a slight piece of official funding (received from the state) to run election activities, and they rely heavily on extra-funding cash-subsidies from unknown sources of unclear origins. No precedents of conducting effective auditing of the political funding was undertaken in the past, and it is a sensitive issue on the political agenda. Most of the viable/functional political parties expenditures exceeds by dozens of times the 'official allocations' (loans) provided by the state, and the obvious discrepancies jeopardize dramatically the credibility of political parties (amongst the lowest ranks in the public surveys in Moldova).

Peer Reviewer's Comments: During the campaign for the June 2007 local elections, the ruling Communist Party invited known Russian pop star Filip Kirkorov to perform live for voters in Chisinau. The media alleged that Kirkorov was paid about 55,000 euros for his appearance. No one denied the reports, but the CEC and other competent agencies made no enquiries. The fee was obviously quite large for just one single action, while much of the campaign was still ahead. In the case of campaigning parties and blocs, the total amount granted from the state is 40,000 lei and the maximum electoral spending was set at 7.5 million lei (460,000 euros) (http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Cuatumulcredit120, http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Cuatumulcreditului594).

21d *In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.*

Score: 25

References: Political Corruption, 2000, edited by IDIS www.viitorul.org

Social Scientist's Comments: With the sole pioneering experience of IDSI, there were no other precedents in Moldova when the issue of political financing has been addressed by other think-tanks, not to mention here state-agencies specialized in such monitoring. The intersection of election interests and monopolist-ideology of the ruling Comunist party make the whole range of state institutions (CEC, Ministry of Justice, Prosecution) to fight hard to create unequal conditions to the contenders (opposition), rather than creating equality of chances, and transparent governance of the election / political spending.

Peer Reviewer's Comments: The fact that the Central Election Commission never undertook such actions, and IDIS initiative was a one-time effort, speaks of lack of monitoring in this respect.

Peer Reviewer's Comments: During the campaign for the June 2007 local elections, the ruling Communist Party invited known Russian pop star Filip Kirkorov to perform live for voters in Chisinau. The media alleged that Kirkorov was paid about 55,000 euros for his appearance. No one denied the reports, but the CEC and other competent agencies made no enquiries. The fee was obviously quite large for just one single action, while much of the campaign was still ahead. In the case of campaigning parties and blocs, the total amount granted from the state is 40,000 lei and the maximum electoral spending was set at 7.5 million lei (460,000 euros) (http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Cuatumulcredit120, http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Cuatumulcreditului594).

21e In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

Score: 0

References: Election Code (No.1381-XIII of 21.11.1997) Law on Political Parties (No.718-XII of 17.09.1991)

Social Scientist's Comments: There are no precedents of imposing penalties for exceeding the limits of financing.

21f In practice, contributions to political parties and candidates are audited.

Score: 25

References: Election Code; Central Election Commission: www.cec.md

Social Scientist's Comments: A report on the spending declared by the political parties and individual candidates for the latest elections (2005, 2007) has been issued by CEC, but it is obviously far from the estimated costs of the campaign, which means that no auditing/control of the reported sources was in fact done by the respective agency.

Peer Reviewer's Comments: Since there were no audits, and CEC reports are far from portraying the reality, score 25 would be inaccurate and generous.

22: Can citizens access records related to political financing?

22a *In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.*

Score: 0

References: Coalition 2007, Mihai Godea, secretary, director of CONTACT Center: www.contact.md

Social Scientist's Comments: No disclosure mechanisms have been established for political parties by the Law on Political Parties. Some disclosure rules are included in the Election Code (1997), although they are largely unsatisfactory to allow better accountability and transparent governance of the political formations registered by law.

Peer Reviewer's Comments: Last year, the government members, parliament members, and the president disclosed their sources of income, property ownership, and size of welfare. The figures were calculated on the basis of the prices registered more than ten years ago, and according to Soviet methodologies. The reports showed modest incomes and few properties owned by Moldovan politicians. Many journalists (including famous Val Butnaru, Constantin Tanase) described it as a mockery.

22b *In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.*

Score: 0

References: Political Corruption, IDIS, Cartier House, 2000: www.viitorul.org; Coalition 2007: www.coalition2007.md

Social Scientist's Comments: Citizens cannot access the files for financial/election records of the political parties. These records are never shown, they are never presented officially, and belong to the most unclear/unclear field of responsibilities of the current political leaders currently in Moldova.

Peer Reviewer's Comments: I had published an article concerning the issue last year, and I found the report on the incomes and properties of public persons in the online official gazette, but since then all records published on the web have gone. The financial reports are almost impossible to obtain. And the CEC website does not have any records either.

22c *In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.*

Score: 0

References: Law on Political Parties (1991) Election Code (1997)

Social Scientist's Comments: With costs or without costs, applications to review financial records of the political parties are never met or addressed by their leaders. It is impossible to hope that one may compare the actual spending of these parties for their party work at the national/territorial level with the official estimates of the spending provided by the state in campaigns.

23: In law, can citizens sue the government for infringement of their civil rights?

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

Score: YES

References: Civil Code (No.225-XV of 30.05.03);
Constitution (1994) Art. 25 - Individual freedom and individual security are inviolable. Art. 26 - The right to appropriate defense is protected by the Constitution.

Social Scientist's Comments: Art.5 of the Civil Code stipulates the free access of citizens to justice in case their rights, individual freedom or legitimate interests are infringed upon. Legal protection shall be provided to all citizens, and nobody could be deprived of legal protection against any kind of abuse. Only judiciary decisions may confirm the existence of a situation in which citizens are affected or not, and therefore citizens can sue public authorities/state agencies if they think their civil rights have been affected/jeopardized/threatened by these authorities.

Peer Reviewer's Comments: Its one thing to say they have resort to an appeal. But its another to say that government officials can be sued (in court) which is how I interpret this question. Naturally, as in most Continental systems, government officials are immune from prosecution in the course of their official functions... and the government is also immune from court cases.

24: Can the chief executive be held accountable for his/her actions?**24a** *In practice, the chief executive gives reasons for his/her policy decisions.***Score:** 25**References:** Democratic Audit (IDIS) - 2003, Sofia, 2005 www.iris-bg.org

Social Scientist's Comments: Between 2001 and 2004, the prime minister did not present any kind of reports in Parliament. As the evidence proved, control of the legislative over executive policy was merely a formal and ineffective instrument. Civil society participation has been propelled only by international organizations working in Moldova, and aimed to encourage a participatory framework of actions/interactions between civil society and governmental agencies on key-country priorities, such as: EGPRSP (2004) and NDP (since 2007). There are two executive chiefs of the executive: the prime minister and the president. The president has the majority party control, and therefore is the major player, using the government as its field of influence. Very often, decision taken by the president for the whole government (cut-offs of the civil service by 70 percent in 2005, capital and fiscal amnesty law in 2007, etc) had received no impact analysis or feedbacks from the citizens, and are largely populist.

24b *In law, the judiciary can review the actions of the executive.***Score:** YES**References:** Law on Administrative Code (Contenciosul administrativ) - No.793-XIV of 10.02.2000 Civil Code - No.225-XV of 30.05.2003

Social Scientist's Comments: By law, every citizen that feels that some of his/her rights were damaged by any public authorities, by administrative decisions or by inaction in the provided by law terms, may address this case in a court of justice in order to get the act cancelation, recognition of the right that has been affected and the compensation for the damage caused by this action. The Administrative Code (adopted in 2000) aims to reduce the area of abuses produced by public authorities against citizens of Moldova and provides a quite sophisticated/complex instrument regulating the actions of citizens against administrative decisions. Nevertheless, in 2001, the Administrative Code was amended, and thus there are major exceptions by which governmental, parliamentary and presidential acts, individual acts of the same authorities, appointment of officials, diplomatic acts, other decisions of the government and normative acts, cannot be reviewed by judiciary courts (art.4).

24c *In practice, when necessary, the judiciary reviews the actions of the executive.***Score:** 25**References:** Administrative Code (2000)

Social Scientist's Comments: In 2001, the Administrative Code was amended, and thus there are major exceptions by which governmental, parliamentary and presidential acts, individual acts of the same authorities, appointment of officials, diplomatic acts, other decisions of the government and normative acts, cannot be reviewed by judiciary courts (art.4).

Peer Reviewer's Comments: Yes, survey results show that people don't feel as though they can complain or appeal government decisions.

Peer Reviewer's Comments: Recently, Vitalia Pavlicenco MP took to court President Voronin for defamation and the court refused to hold a trial for President cannot be taken to court, by judges interpretation.

24d *In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.*

Score: 25

References: System of Unofficial Taxation, edited by IDSI in 2007: www.viitorul.org;
Legal Framework and the Investment Climate in Moldova elaborated by the
Coalition for Rural Economic Development: www.infotag.md/f2004_5.ro

Social Scientist's Comments: The highest obstacles in business development are general bureaucracy, the burden created by the proliferation of the new regulations established by the ministries, corruption and instability of the economic policies (micro and macro-policies). Unstable policy framework of the state has many times negatively impacted over the positive incentives reached by fiscal encouragements. Many legal decisions and acts, instructions adopted at the level of executive agencies (ministries, fiscal inspectorate, other departments) conflict with the norms of the main/basical legislation that run business activities (Constitution, Fiscal and Civil Codes). In 2004, over 300 acts were assessed as 'normative acts adopted at the departmental level' which represent an extra-legal field, overpassing the laws adopted in business development. Unfortunately, the 'guillotine law' passed by the parliament in 2002 has failed to simplify to a desired level the functional framework for business.

Peer Reviewer's Comments: If you will read a law passed by parliament and compare it to an executive order, there is no comparison. Civil servants don't do anything without detailed and specific instructions from the head of the agency or higher. Like in most FSU countries, even small decisions must be taken at CabMin level...

25: Is the executive leadership subject to criminal proceedings?

25a *In law, the heads of state and government can be prosecuted for crimes they commit.*

Score: YES

References: Constitution of RM (1994) President of RM can be impeached when it is found that he broke the provisions of the Constitution by two thirds of the MPs. Proposal of impeachment can be launched by one third of MPs and be submitted to the President, while the President can provide explanations to the Parliament and to the Constitutional Court on all facts that have motivated the initiative. The prime minister can be dismissed by a no-confidence vote brought in Parliament by the majority of MPs (dismissal can be called by at least one fourth of the MPs out of 101 existing).

Social Scientist's Comments: Political instability brought a high rate of mobility of governments in the first decade after the Independence of Moldova (1991), while after 2001, with the Communist Party winning in general elections, the government became a very stable though rigid body, with ministers being expelled from by decrees of the head of state, even without the consent of the Parliament.

Peer Reviewer's Comments: There were even cases when the Prime-minister found out from journalists that certain ministers were sacked by President. Presidential advisers are known for deciding over ministerial and ambassadorial bids.

25b *In law, ministerial-level officials can be prosecuted for crimes they commit.*

Score: YES

References: Civil Service Law (No.443 - XIII of 04.05.95) Law on Fighting Corruption and Protectionism (No.900 of 27.06.1996)

Social Scientist's Comments: Art.30 of the Civil Service Law provides the reasons for which civil servants and ministerial-level officials can be prosecuted, in terms of disciplinary, material, administrative or penal responsibility. In case civil servants prove their rights in a court of justice or dismiss the accusations brought to them at their dismissal, they are paid off for the damages received from these actions. The legislation against corruption provides a variety of forms of prosecuting ministerial-level officials from crimes that they have committed (art.11).

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

26a *In law, the heads of state and government are required to file a regular asset disclosure form.*

Score: YES

References: Civil Service Law (No.443-XIII of 04.05.1995) Law on the Disclosure of Incomes by Physical Persons (Nr.662-XIII din 23.11.95) Association Adept - [\[LINK\]](#) Law on the Control of Incomes of the Top-officials (No.1264-XV of July 19, 2002)

Social Scientist's Comments: There is a Central Commission that oversees incomes declared by officials of the government of Moldova. On Aug. 25, 2006, it presented a short report on the declarations submitted by the governmental officials, although mass media contested the results. The law on disclosure of properties and incomes of the top officials stipulates the obligativity and the formal procedures through which civil servants and politicians disclose their earnings, properties, although frequently in the past, the overnment simply delayed or postponed for unspecified periods of time the presentation of declarations, or, when they have been presented to the Commission created by the government, it showed up only partial and unconvulsive information on the real earnings. The custom is that large family properties are transferred to the members of the family or close relatives for the duration of the mandate, or are simply ignored, and there is no systematic and objective oversight of these issues.

26b *In law, ministerial-level officials are required to file a regular asset disclosure form.*

Score: YES

References: Law on the Declarations and Control of the Incomes and Properties Belonging to the Top-level (ministerial) Officials (No.1264-XV of 19.07.2002) Civil Service Law (No.443-XIII of 04.05.1995)

Social Scientist's Comments: Formal requirements abound, although they are rarely implemented. A new civil service law is under consideration in 2007, and it incorporates a large number of amendments derived from the anti-corruption commitments and legislation adopted recently by the Parliament.

26c *In law, there are regulations governing gifts and hospitality offered to members of the executive branch.*

Score: YES

References: Civil Service Law Law on Government (No.64-XII of 31.05.1990)

Peer Reviewer's Comments: If we talk about the regulatory level, there are no clear guidelines about what is a gift versus bribe. For example, in US, civil servants can only take a lunch or other presents up to \$25. No such limits are currently defined.

26d *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: Law on the Declaration and Control of the Personal Incomes and Properties of the Public Officials (No.1264-XV of 19.07.2002)

Social Scientist's Comments: Art.11 of the law establishes a Central Control Commission within the government, which is entitled to oversee the declarations on incomes received from the public officials. The CCC is constituted on a parity format: three from the presidency, three from the Parliament, and three from the government.

Peer Reviewer's Comments: There has been no independent auditing of the executive branch in the past years. The official Auditors Chamber (Curtea de Conturi) files regular reports, which are then published in the Official Gazette, but no law enforcement body reacts to the irregularities signalled by the Auditors Chamber, unless the top leadership orders - and particularly President Vladimir Voronin takes an interest in the issue.

26e In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Score: NO

References: Civil Service Law (No.443 - XIII of 04.05.1995)

Social Scientist's Comments: Art.11 prohibits the public officials to undertake entrepreneurial activities, or to simultaneously have managerial capacity in private or public business companies. There are no explicit cases of prohibiting entrepreneurial activity to be performed by former state officials, which of cause generate a propensity to 'prepare' their leave long in advance, or visibly give an advantage those companies that would help them later to set their business.

Peer Reviewer's Comments: A draft law on conflict of interests was submitted to the Parliament for CSOs; however, Communist MPs told one member of the Anticorruption Alliance that this is not a priority in terms of readings. The draft law is dealing, inclusively, with this sort of situations.

Peer Reviewer's Comments: Generally, the Constitution bans the head of state and the premier to hold any paid position during the office. No restrictions exist after leaving the public service.

26f In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

Score: 0

References: S.Tatarov, head of the coordinational unit for the implementation of the RAC (Central Administration Reform Strategy) - June 2007

Social Scientist's Comments: No such provisions exist in the current legislation, or in the drafts currently prepared.

Peer Reviewer's Comments: Yes, but these provisions are not so important in Moldova where officials use their jobs to earn money. So they dont need to rely on jumping into the private sector like we do in the EU!

26g In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

Score: 0

References: Lilia Carasciuc, Transparency International: www.transparency.md

Social Scientist's Comments: Art. 13 of the Law on Civil Service specifically states that 'public officials are prohibited to receive gifts or services for the fulfilment of the obligations they are in charge', excepting symbolical ones, that are generally recognized as forms of politeness and hospitality. The law does not define what is the value of the hospitality gifts, and leaves it to interpretation. The law equally prohibits civil servants to open up accounts in foreign banks, although there is little confidence in the declaration of revenues/incomes that have been presented by the governmental officials in the last decade. There are important privileges that are delivered to the top-ministerial officials (Administrative Board Memberships, 'green-zone' corridors for export/import operations, land plots offered free of charge,

apartments) without any possibility for the public to oversee these kind of gifts.

Peer Reviewer's Comments: The TI report the reviewer cites provided hard data about gift acceptance...

Peer Reviewer's Comments: Comments above, that I fully support, are closer to 0 grade, in my opinion, since there is basically no control over gifts received; rather, there is a general public tolerance, as these are seen as part of "Moldovan hospitality".

Peer Reviewer's Comments: No one really deals with the gifts and hospitality for government in Moldova. The media signalled a number of grave abuses with lodging among parliament and executive members. A block of apartments meant for public officials in Corobceanu street in Chisinau was literally captured by Transnistrian war veterans a few years ago. No such incidents repeated this year. This year, however, the Timpul and Jurnal de Chisinau newspapers reported on the illegalities with apartments in the Parliament Hotel - a building offering temporary home to legislators who do not own a home in the capital. They said acting Minister of Culture and Tourism Artur Cozma is among the beneficiaries there, though he was not entitled by law to be granted lodging in that building.

26h *In practice, executive branch asset disclosures (defined here as ministers and above) are audited.*

Score: 0

References: Transparency International Reports: www.transparency.md

Social Scientist's Comments: Law on the Incomes of Physical Persons (23.11.1995) - obligativity to declare everything above minimum salary Law on civil Service (Nr.443 of 04.05.1995) - stipulating that hiring in the civil service is preceded by the obligation of the civil servant to provide, according to the law, a declaration on the incomes, properties and finances, in RM as well as abroad. Presentation of inconclusive data would bring immediate suspension of the position in the administration. Law on Curbing Corruption and Protectionism (Nr.900/27.06.96), art.10 stipulates that employment is preceded by regular (annual) presentation of a declaration on incomes/revenues, estate properties, banking accounts and value obligations, i.e. abroad. Fiscal Code sets on its own turn the obligation of annual declaration of revenues by all physical persons, Election Code (No.796-XV din 25.01.2002) stipulates that CEC, as well as the precinct election commissions) request declaration of revenues from the candidates running for public positions for the previous two years before the election year, as well as their origin-, i.e. incomes from investment funds, bank loans or renting of estate properties. Law on the Declaration and Control of Revenues and Properties (No1264-XV) was adopted in 2002, at strong pressures from the international organizations, although the willingness to increase the level of transparency and accountability of the top-level officials is quite low and is rather politicized.

Peer Reviewer's Comments: Increasing, Moldova's medium-term financial framework comes under the scrutiny of the Bank and Fund in their evaluations. Moreover, EU budget support is also audited, so its not true that the Moldova state can indiscriminately "lose" assets...

Peer Reviewer's Comments: There were no audits undertaken in respect to asset disclosures. Everybody agrees that these are merely a formality and do not reflect the real situation, since the assets' values is indicated at the purchase rate, and not the market current rate. So, there are absurd figures such as \$500 per 2 bed-room flat, while the market price is around \$50.000.

Peer Reviewer's Comments: It's just that I have not seen any audit of the top leaderships' properties, therefore even 25 is too much.

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

27a In law, citizens can access the asset disclosure records of the heads of state and government.

Score: YES

References: Law on Declaration and Control of the Revenue of Top-level Officials (No.1264-XV of 19.07.2002)

Social Scientist's Comments: Art.13 stipulates that all declarations presented by the president, members of the government, MPs, chairmen of the National Bank, Auditing Court, Intelligent Service, etc. be presented to the mass media.

Peer Reviewer's Comments: I have been asking for hours the records in the Fiscal Service (which deals with the issue), but they give me one phone number after another, and my effort to obtain the information has led nowhere for five hours. However, I have copied and pasted the information from Monitorul Oficial and now I own those records.

27b In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

Score: 25

References: Transparency International: www.transparency.md; "Monitorizarea accesului la informatie în Republica Moldova". Jurnal de Chi_inu (Nr.447 din 20.01.2006; Nr.380 din 20.05.2005; nr. 405 din 16.08.2005); Ziarul de gard (Nr.51 of September 8, 2005); Timpul (nr.473 of August 30, 2006); Centre for Investigative Journalism - www.investigatii.md

Social Scientist's Comments: Reports presented by the public officials include irrelevant data, while Central Commission for Control of Declarations (CCC) is but a decorative body, aimed to show up some signs of openness. The critics are generally related to the value of the estate indicated by the civil servant, which are far below market prices, the lack of monitoring and regulatory instruments to ensure full confidentiality/transparency of the estimations, the independence of the monitoring body, the timing of presentations (when state bodies may decide on their own to suspend or ignore the deadlines set for the presentation of the declarations), the lack of coordination among these declarations with the fiscal declarations, the ambiguities related to the transfers of properties to the family members, etc.

Peer Reviewer's Comments: I have been asking for hours the records of the president in the Fiscal Service (which deals with the issue), but they gave me one phone number after another, and my five-hour effort to obtain the information has led nowhere. Last year, in response to the publication of the financial information of executive and legislature members in Monitorul Oficial, I asked the Fiscal Service to give me that information, but it demanded a formal application from my newspaper (in spite of the fact that the records were already in Monitorul Oficial !). The secretary of the Central Control Commission [...] was not available for comment either on the fixed-line phone or cellular. Nevertheless, as I said, I have obtained the records.

27c In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

Score: 0

References: www.transparency.md www.investigatii.md

**Social Scientist's
Comments:**

Except press releases issued by the governmental body in charge with the declarations of incomes of the public central officials, there are no other possibilities to get acquainted with the situation of their incomes. Declarations are kept secret. Some investigative mass media series have been issued, bringing the controversy to the public discussion, but officials have ignored or rejected accusations providing no additional information. Official websites do not have any information of this kind.

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

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

Score: 25

References: Adept Association: [\[LINK\]](#);
IDIS Economic Statewatch, 2004, 2005, 2006, 2007: www.viitorul.org

Social Scientist's Comments: Formally, civil servants shall be no members of political parties. In practice, they cannot be employed if they have not displayed favorable positions towards the ruling party, while the civil service legislation is badly implemented and managed. The on-going reform of the central public administration is making only the first steps towards professionalization of the service, having not yet achieved the 'depoliticization' of the service.

Peer Reviewer's Comments: President Vladimir Voronin is also First Secretary of the Communists' Party, while the common understanding is that s/he should be the President of all people. The Communists ideology (in terms of history, language, culture) became official governmental line - History was reviewed with inserts from Soviet-era manuals, for example. This brought criticism from the Council of Europe that recommended a moratorium on language/historical issues to be imposed (April 2002).

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

29a In law, the judiciary can review laws passed by the legislature.

Score: YES

References: Constitution of RM (1994)

Social Scientist's Comments: Parliament is the highest representative authority of the people of Moldova and the only legislative authority of the state. By the supreme law (art.134), only the Constitutional Court can undertake a control of constitutionality on the laws and decisions of the Parliament, as well as the decrees of the president of Moldova, the decisions and indications of the Government, and the international treaties that were ratified by Moldova.

29b In practice, when necessary, the judiciary reviews laws passed by the legislature.

Score: 75

References: Elena Arama, USM, History and Theory of the Law Department: www.iatp.md; Constitutional Court: www.constcourt.md/decisions

Social Scientist's Comments: The Constitutional Court intervenes regularly, when it is solicited to intervene by the subjects strictly defined by the constitution (MPs, government, president) to interpret the constitutional provisions, to advise on the initiatives to review/amend the constitution, to confirm the election of the Parliament and of the president of Moldova, to confirm the conditions which justify the dissolution of the Parliament, the dismissal/impeachment of the president of Moldova, or its provisional vacancy of the incapacity of the president to fulfill his/her attributions over 60 days, to resolve other exceptional cases when the judges of the Constitutional Court consider that the laws contradict the constitution.

29c In law, are members of the national legislature subject to criminal proceedings?

Score: YES

References: Law on the Statute of the Members of Parliament (No.39-XIII of 07.04.1994)

Social Scientist's Comments: Art.9 of the law stipulates the conditions in which MPs enjoy a parliamentary immunity, which ensures that MPs cannot be prosecuted by judiciary for their speeches, political opinions or their votes in the Parliament. If the prosecution address the Parliament to suspend the immunity of an MP, then the Legal, Nominations and Immunity Commission of the Parliament may decide over 15 days if an MP can lose his/her immunity to appear before a court of justice to defend his/her rights. The Immunity can be suspended with the votes of 50 percent + 1 from the legislative.

Peer Reviewer's Comments: The most recent case concerns lawmaker Vasile Colta, from the Alliance Our Moldova. He was alleged to have been involved in a fatal traffic accident, in illegal land transactions, and in cigarette smuggling. He received a postponed five-year sentence last May over the land deal and is still under investigation over the cigarette affair. See <http://www.allmoldova.com/index.php?action=newsblock&rid=0&id=1179815323&sd=21&sm=05&sy=07&ed=22&em=05&ey=07&ing=eng>, <http://www.transparency.md/News/en/20070711.shtml>.

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

30a *In law, members of the national legislature are required to file an asset disclosure form.*

Score: YES

References: Law on the Declaration and Control of Revenues and Properties (No.1264-XV of 19.07.2002) includes MPs among the categories of those who are obliged to provide full references of their incomes/estates before the Central Control Commission, which must validate/oversee these declarations.

30b *In law, there are restrictions for national legislators entering the private sector after leaving the government.*

Score: NO

References: Law on the Statute of Deputies/Members of the Parliament (No.39-XIII of 07.04.1994)

Social Scientist's Comments: There are no restrictions for national legislators after leaving the government.

30c *In law, there are regulations governing gifts and hospitality offered to members of the national legislature.*

Score: NO

References: Parliamentary Procedural Regulation (No.797 of 02.04.1996) Law on the Statute of the Deputies (MPs) - No.39-XIII of 07.04.1994

Social Scientist's Comments: There are no specific regulations governing gifts and hospitality offered to members of the national legislature in RM.

Peer Reviewer's Comments: This being said, the anti-corruption law -- as far as I know -- accepts MPs in the definition of a civil servant. If these gifts are corrupt consideration, then MPs are legally covered.

30d *In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.*

Score: NO

References: Law on the Statute of the MPs (No.39-XIII of 07.04.1994)

Social Scientist's Comments: Art.7 states that MPs shall present their revenue declarations and estate situation at the beginning of the mandate. Declarations are received by the Legal, Nominations and Immunity Committee of the Parliament, which shall organize in cooperation with fiscal bodies a control over the conformity of these declarations and the taxes paid according to the Fiscal Code. The commission will present a report on the situation of deputies two days after which this report is voted by a simple majority in Parliament. There are no requirements for independent auditing, although independent press have often independently reassessed these declarations, with almost no reaction afterwards from the Legal, Nominations and Immunity Committee of the Parliament.

30e *In practice, the regulations restricting post-government private sector employment for national legislators are effective.*

Score: 0

References: Alexandru Tanase, lawyer, Center for Legal and Penal Studies Mihai Godea, Contact Centre

Social Scientist's Comments: No such restrictions exist currently in the legislation governing the statute of the MPs, and this is conducive to open lobbying of economic interests of the companies and firms led by outstanding politicians of the Parliament. No lobbying legislation exists, therefore economic interests are generally facilitated through agenda-setting mechanisms and via leadership of the parliamentary fractions.

30f *In practice, the regulations governing gifts and hospitality offered to national legislators are effective.*

Score: 0

References: Center for Independent Journalism : www.ijc.md;
Center for Investigative Journalism: www.investigatii.md

Social Scientist's Comments: Regulations are not effective, as they are virtually non-existent.

30g *In practice, national legislative branch asset disclosures are audited.*

Score: 25

References: Mihai Godea, Contract Center Galina Bostan, lawyer for Human Rights Association

Social Scientist's Comments: Formally, according to the Statute of the MPs (No.39-XIII of 07.04.1994) declarations of revenues and estate of the MPs shall be made public and voted with a simple majority of votes in the Parliament. In practice, no effective deliberations on this subject are made, and mass media receive the report the latest. No independent auditing of the results is made to bring revenue asset situation in conformity with the existing realities.

Peer Reviewer's Comments: Comments bellow are equal to 0 grading.

Peer Reviewer's Comments: This is similarly to the outcome of the executive branch asset disclosure.

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

31a *In law, citizens can access the asset disclosure records of members of the national legislature.*

Score: NO

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

Social Scientist's Comments: No information on the revenue / income declarations is accessible on the website of the Parliament. Excepting a formal information provided by the Press Service, no other data has been accessible to the mass media in 2005 and since.

31b *In practice, citizens can access legislative asset disclosure records within a reasonable time period.*

Score: 0

References: Aliona Radu - editor in chief of the Ziarul de Garda Corina Cepoi - director of the Center for Independent Journalism

Social Scientist's Comments: No access to income declarations is made on the institutional site of the Parliament, while data provided by the Legal, Nominations and Immunity Committee is irrelevant, outdated and unverified.

Peer Reviewer's Comments: In May-September 2004, Transparency International Moldova requested, in a letter addressed to 95 authorities, central and local public authorities, levels ,

31c *In practice, citizens can access legislative asset disclosure records at a reasonable cost.*

Score: 0

References: Galina Bostan, Lawyers for Human Rights Corina Cepoi, Center for Independent Journalism

Social Scientist's Comments: Citizens cannot access with costs or without costs a number of sources of information: income declarations, parliamentary budget, distribution of houses and apartments, employment of the parliamentary staff, use of the budgetary resources for the needs of the Parliament, etc.

Peer Reviewer's Comments: Transparency International Moldova conducted in May-September 2004 a study on access to information and addressed requests for information to 95 public authorities, including the Parliament. The authorities which did not answer included the Parliament. The most looked information proved to be one related with the property owned by officials. ("Tramped Underfoot", on www.investigatii.md)

32: Can citizens access legislative processes and documents?

32a *In law, citizens can access records of legislative processes and documents.*

Score:	YES
References:	Procedural Regulation of the Parliament of RM (No.797 of 02.04.1996); www.parliament.md
Social Scientist's Comments:	Art.45 of the Regulation stipulates that the business agenda of the Parliament is to be placed on the institutional website prior to deliberations at the beginning of the weekly session. Art 48 stipulates that in no more than five working days from the setting of the legislative agenda, drafts of the law, decisions, as well as other documents which are debated by the Palirmaent shall be placed on the website. The same is done in the case of deliberations.

32b *In practice, citizens can access records of legislative processes and documents within a reasonable time period.*

Score:	25
References:	Vasile Spinei - ACCES INFO Association: www.acces-info.org.md - Monitoring report on the application of the Law on Access to Information in Moldova; Your right: access to information. Field Legislation of the Republic of Moldova on the Freedom of Information, International Acts and Practices.
Social Scientist's Comments:	Citizens can access a part of the records (stenograms) of the deliberastions in the Parliament which are placed on the institutional website. This information is not systematic and is decided by the parliamentary staff when it is to be placed or not on the website. Since February 2007, Parliament decided to suspend direct broadcasting of the parliamentary sessions on the public TV station, which was in fact a step back in regard with the access to information law adopted in 2000, and despite criticism from the civil society, leadership of the Parliament has kept the decision on the premise that 'some politicians will use this kind of broadcasting fro making personal political capital' (!?)
Peer Reviewer's Comments:	2 weeks is the minimum it takes for ordinary people in order to access legislative information. Official Monitor, where all the documents and acts are being published, is un-affordable to the majority population, because of poverty/costs. Once the broadcasts of parliamentary sittings were canceled, people were deprived from information about legislative process. Reports at Teleradio-Moldova are biased, lacking critical approach and balance.
Peer Reviewer's Comments:	The live broadcast was suspended on ground of high costs for National Television and Radio, and then Vocea Basarabiei Radio has offered to broadcast live the parliamentary sessions, on own expenses. A decision was due within weeks, but the Communist majority is apparently inclined to turn down the offer.

32c *In practice, citizens can access records of legislative processes and documents at a reasonable cost.*

Score:	75
References:	www.acces-info.org.md www.parlament.md

**Social Scientist's
Comments:**

Parliamentary staff is in charge to produce regular records of the parliamentary sessions and post them on the website (www.parlament.md). There, everyone can consult and access them, in order to get documented on the parliamentary business. Usually, citizens are not paying for accessing the website of the Parliament, while other kind of paid-information is not delivered by the Parliament. Citizens have to pay only for the Monitorul Oficial (monthly circulation) which include all laws, decisions adopted by the Parliament, as well as decisions and decrees taken by the rest of the public authorities in Moldova (presidency, government, Constitutional Court, Auditing Court, etc). The costs for an annual subscription to Monitorul Oficial is about US\$40. Nevertheless, parliamentary staff have a very selective approach, and many critical sessions are not recorded at all, particularly when they are very sensitive. In May 2007, Parliament decided to stop transmission of the parliamentary sessions at the largest national-broadcasting TV and radio Company TVM1 for unexplained reasons. Despite protests from the mass media and the opposition, the decision remained intact.

Peer Reviewer's Comments:

Internet usage is very low - up to 10%, so citizens in countryside do not have access or have very limited access to legislative information. Not all acts/laws are being placed on the Parliament site, and power-purchase of Official Monitor is low.

Peer Reviewer's Comments:

I receive the press releases from Parliament at no cost, but I am convinced I do not receive the information about all of the events. Rather, I receive a selected coverage or announcements from the legislative press service. The same is applicable for the website. On the other hand, my colleagues who watch the debates live from the session hall bring me interesting news that were skipped in the official communiques.

33: Are judges appointed fairly?**33a In law, there is a transparent procedure for selecting national-level judges.****Score:** YES**References:** Law on the Judiciary Organization (No.514-XIII of 06.07.1995) Law on the Statute of Judges (NO.544-XIII of 20.07.1995) Law on the Creation of the National Institute of Justice (No.152-XVI of 08.06.2006)**Social Scientist's Comments:** Art 9 of the Law on the Statute of Judges stipulates that all positions of judges are filled in through a public and transparent procedure of competition. Competition is held after publication in mass media of an announcement / call of participation by the Magistrates Upper Council. The date, place and way of selecting candidates is communicated publicly in mass media by the Upper Council of Magistrates with no less than 90 days before the selection day. The graduates of the National Institute of Justice participate to the competition on the basis of their individual merits and scores. As a part of the legal reform initiated in Moldova, a specialized institute in preparing the necessary human resources for the judiciary was organized in 2006.**33b In practice, there are certain professional criteria required for the selection of national-level judges.****Score:** 75**References:** Law on the Statute of Judges (No.544-XIII of 20.07.1995)**Social Scientist's Comments:** Art.6 of the Law on the statute of judges stipulates the following criteria: permanent residence in Moldova, full exercise capacity, law degree, at least five years of law practise, knowledge of the official language, no legal antecedents and medical fitness.**Peer Reviewer's Comments:** Although the legislation sets out some requirements such as the appropriate degree in law and a certain amount of experience, in reality the genuine professional criteria are replaced with loyalty to the ruling party. One of the latest examples: the European Court of Human Rights has rejected all the candidates Moldova has nominated as national judge in this European body of justice. In fact, all candidates were people who had contributed to the conviction of Moldova in Strasbourg more than once.**33c 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 on the Statute of Judges (No.544-XIII of 20.07.1995)**Social Scientist's Comments:** For national-level judges there are specific requirements. For instance, art.6 of the law indicates that candidate to the Appeal Court need at least six years of work experience, while candidates to the Supreme Justice Court seven years. All judges are appointed / confirmed in their position by the president of Moldova (art.11) at the recommendation of the Upper Council of Magistrates. Judges for the Appeal Court and Supreme Justice Court are confirmed by the Parliament, at the recommendation of the Upper Council of Magistrates. The president or Parliament may reject a candidate proposed by the Upper Council of Magistrates only once.

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

34a In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Score: YES

References: Law on Administrative Offenses (No.3 of 29.03.1985) Law on the Penal Procedures (No.122-XV of 14.03.2003)

Social Scientist's Comments: Art.269 of the Law on Administrative Offenses stipulates the elements that must include the final decision of the judiciary on the legal facts considered and deliberated. Art. 99 of the Law on Penal Procedures stipulates the probation elements, which provide necessary elements for the reasons to make a judicial decision.

34b In practice, members of the national-level judiciary give reasons for their decisions.

Score: 25

References: Alexandru Tanase, lawyer, Center for Penal and Legal Studies Viorel Furdul, lawyer, ULIM Legal Department

Social Scientist's Comments: Although judges are entitled to give reasons for their decisions, with the newly amended Law on Judicial Procedures, they have largely neglected this obligation, mainly due to overwhelming pressure (no. of files/cases). Thus judges often do not provide publicly reasons for their decisions, or simply use a part of the defender or prosecution pledge to argue their decision; therefore, in many cases, the arguments/reasons for making one or another decisions is greatly and strikingly different from the arguments exposed on paper.

Peer Reviewer's Comments: Judges are yet not accustomed to the idea of accountability and transparency. It is a common understanding among judges that they are forming a privileged club, which should be protected from the "public eye".

34c In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Score: YES

References: Constitution of RM (1994) Law on the Statute of Judges (No.544-XIII of 20.07.1995)

Social Scientist's Comments: Art.21 of the Law on the Statute of Judges stipulates the provisions concerning the disciplinary measures against judges, when they have committed flaws in their legal obligations, they have manifested ultrajurious behavior to the public opinion, which damages the judiciary reputation. Art.23 says that the state is responsible in property terms for the judicial errors committed by the judges (this is exactly a painful reality since RM has been sentenced for dozens and hundreds of times by the European Court on Human Rights when citizens have directly applied in Strasbourg to protect themselves against abusive or politically influenced or incorrect decisions made by the Moldovan judiciary). Art.22 of the Law stipulates a long list of cases in which disciplinary measures shall be taken against judiciary.

Peer Reviewer's Comments: Law 950-XIII from July 1996 on disciplinary collegium and disciplinary responsibility of judges says in its first article that the Disciplinary Collegium within the Higher Council of Magistrates is the body in charge with the examination of cases concerning the disciplinary responsibility of judges in Moldova. See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=313303>

34d In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Score: YES

References: Law on the Statute of Judges (No.544-XIII of 20.07.1995)

Social Scientist's Comments: Judges can be dismissed from their position as a disciplinary measure by the Upper Council of Magistrates, as a self-governing body of the judiciary. Judges can be dismissed by the authorities that have appointed them. Individual judges can resign under specific conditions stipulated by law.

34e In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

Score: 50

References: Law on the Statute of Judges (No.544-XIII of 20.07.1995) Vitalie Nagacevski, Lawyers for the Human Rights

Social Scientist's Comments: The proposals for the dismissal of judges are initiated by law by the Upper Council of Magistrates and are submitted for consideration to the president or to the Parliament, according to the authority that have appointed the respective judges. This initiative is to be based on certain legal reasons (art.25), which are related generally to: the resignation, professional incapacity, committed disciplinary violations proved by the Council, confirmation of the lack of exercise of capacity, losing citizenship of the Republic of Moldova, etc.

Peer Reviewer's Comments: Mr. Roger Gladei from Turcan & Turcan Law Office: the Higher Council of Magistrates is an independent body and it appoints members to the Disciplinary Council. However, political interference may be felt in connection with the dependence of the judiciary branch on the funding provided by Parliament.

34f In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

Score: 25

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- References:** Vitalie Nagacevschi, Lawyer, Juristii pentru drepturile omului Viorel Furdui, Lawyer, ULIM Legal Department
- Social Scientist's Comments:** Art.21 of the Law on the Statute of Judges stipulates that, 'after covering the damage produced by previous decisions, which were considered incorrect and illegal by a judicial decision, the state can initiate a pledge against the judges that have caused the damage, because of lack of bona-fides behavior or negligence. If the illegal decision has been made by more than one judge, the legal offense can be initiated against all participating judges.
- Peer Reviewer's Comments:** I agree that judicial improprieties are difficult to detect (and thus punish). However, when necessary, appropriate penalties can be raised.
- Peer Reviewer's Comments:** My answer is different because to my mind, no judges have been punished for the decisions that have led to the conviction of Moldova in the European Court of Human Rights. Today, 24 October 2007, Moldova was convicted again, on seven cases, following a series of convictions last week.

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

35a In law, members of the national-level judiciary are required to file an asset disclosure form.

Score: YES

References: Law on the Statute of Judges (No.544-XIII of 20.07.1995)

Social Scientist's Comments: ARt.15 stipulates that judges have the obligation to present a declaration on incomes and estate properties they own by the time they take office. Declarations are submitted to the Upper Council of Magistrates that serves as a disciplinary body of the judiciary as well.

35b In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Score: NO

References: Law on the Statute of Judges (No.544-XIII of 20.07.1995) Law on the Declaration and Control of the Incomes and Estate Properties Owned by Top-level Officials (No.1264-XV of 19.07.2002)

Social Scientist's Comments: Art. 22 of the Law on statute stipulates that judges shall refrain from exploiting their positions in order to get illegal sources of incomes. There are other provisions, such as the top-officials from the executive, legislative and judiciary have to disclose their revenues. Sometimes the process is postponed or delayed for several years, and when it goes on according to the schedule, the information presented by the respective officials is largely incomplete or partially relevant.

35c In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Score: NO

References: Law on the Statute of Judges (No.544-XIII of 20.07.1995) Law on the Declaration and Control of the Incomes and Estate Properties Owned by Top-level Officials (No.1264-XV of 19.07.2002)

Social Scientist's Comments: Art. 22 of the Law on statute stipulates that judges shall refrain from exploiting their positions in order to get illegal sources of incomes. There are other provisions, such as the top-officials from the executive, legislative and judiciary have to disclose their revenues. Sometimes the process is postponed or delayed for several years, and when it goes on according to the schedule, the information presented by the respective officials is largely incomplete or partially relevant.

Peer Reviewer's Comments: The idea of an independent/external audit is badly received not only by judges, but also by public institutions since it is seen as a "control" aimed to damage the credibility of certain body.

35d In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Score: NO

References: Law on the Statute of Judges (No.544-XIII of 20.07.1995) Law on the Organization of the Judiciary (1995) Constitution of RM (1994)

Social Scientist's Comments: There are no restrictions as to the way former national-level judges may want to continue their activity after leaving their positions.

35e In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

Score: 0

References: Law on Curbing Corruption and Protectionism (No.900 of 27.06.1996)

Social Scientist's Comments: Art.6 aims to restrict some rights and liberties of the public officials in order to prevent and curb corruption, to protect the constitutional regime, the rights and liberties of citizens, which could be affected by unloyal behavior of corrupt officials. Provisions concerning the employment in the private sector of the former state officials are inexistent in the whole bulk of the anti-corruption legislation in Moldova.

35f *In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.*

Score: 0

References: Law on the Statute of Judges (No.544-XIII of 20.07.1995);
Lilia Carasciuc, Transparency International - Moldova: www.transparency.md

Social Scientist's Comments: The Law explicitly prohibits them to conduct business, to provide verbal or written consultations on the pledges considered in a court, etc. Art.22 (Infringements) stipulates that judges should not exploit their positions with the aim to receive unworthy benefits. Although they are part of the judiciary system, the behavior of the technical staff of the judiciary is regulated by the provisions of the Civil Service Law, which stipulates (art.11) that civil servants are prohibited to receive gifts and other hospitality signs, except symbolical presents, whose value/size is not specifically provisioned by the law.

Peer Reviewer's Comments: Comments above indicate a 0 grade.

Peer Reviewer's Comments: I choose another score because I believe the regulations concerned have never been enforced actually.

35g *In practice, national-level judiciary asset disclosures are audited.*

Score: 25

References: Alina Radu - Chief Editor, Ziarul de garda www.investigatii.md
www.transparency.md

Social Scientist's Comments: Declarations that are presented by the public officials are never audited. Investigative mass media have often made the case for estimations that are taken as granted from the respective public officials or judiciary, but are never reassessed on the basis of the market prices.

Peer Reviewer's Comments: Comments above are indicating a 0 score.

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

36a *In law, citizens can access the asset disclosure records of members of the national-level judiciary.*

Score: NO

References: Law on Access to Information (NO.982-XIV of 11.05.2000)

Social Scientist's Comments: By law, citizens may apply to receive any kind of official information (except in the cases in which some data belong to the field of state secrecy), but often this field is artificially enlarged up to the limits where noone can access the data. For instance, income declarations of civil servants, judges, deputies are considered to be a field of 'personal interest' (art.7c), and on the basis of that, independent mass media have been sued in the last years for distributing personal information, despite the fact that they claimed only to follow the public interest during investigative journalism. Authorities may decline, by law, to provide some sorts of information, but they shall inform in writing about their reasons to the applicants.

36b *In practice, citizens can access judicial asset disclosure records within a reasonable time period.*

Score: 0

References: Alina Radu, editor in chief of newspaper Ziarul de Garda Lilia Carasciuc, Transparency International - Moldova

Social Scientist's Comments: As in the case with income declarations, citizens cannot access freely these records.

36c *In practice, citizens can access judicial asset disclosure records at a reasonable cost.*

Score: 0

References: Lilia Caarasciuc, Transparency International - Moldova Alina Radu, editor in chief Ziarul de garda

Social Scientist's Comments: There is no procedure by which the information that cannot be received from open sources or upon request (notification) can be purchased officially.

37: Can the legislature provide input to the national budget?

37a *In law, the legislature can amend the budget.*

Score:	YES
References:	Procedural Regulation of the Parliament (No.797 of 02.04.1996) Law on Legal Acts (No.780-XV of 27.12.2001)
Social Scientist's Comments:	Parliament adopts the Budgetary Law annually, as an organic law (voted with the majority of the MPs); then, it may amend it till the end of the spring-summer session, or whenever Parliament decides to change the budgetary expenditures.
Peer Reviewer's Comments:	The Parliament often modifies the budget, as the government almost never meets its budgetary objectives. The last change took place on 26 July, when the legislature decided to spend an additional 250 million lei in order to cover the losses in the drought-hit agriculture. This follows another change, on 23 July. See http://www.info-prim.md/?x=&y=9536 or http://www.info-prim.md/?x=&y=9536 (English).

37b *In practice, significant public expenditures require legislative approval.*

Score:	50
References:	Veaceslav Ionita, lecturer, economist; www.viitorul.org - Fiscal Decentralisation Policy Brief
Social Scientist's Comments:	In most of the cases, amendments of the Budgetary Law require supplementary voting and consideration initiated by the respective legislative committees. Nevertheless, often important transfers are issued by the executive without the approval of the Parliament, thus generating political tensions, legal and financial confusions and a wide space for manipulations.
Peer Reviewer's Comments:	It is a common practice that Government undertakes expenditures, and it is asking post-factum for Parliament's approval.
Peer Reviewer's Comments:	In August 2007, the government released 2,012,000 lei, that is almost 122,000 euros for the lighting system within the area surrounding the villa of President Vladimir Voronin in Condritsa village (at a time when the farmers complained of millions of lei in losses due to the summer drought). There was no parliament approval. See http://garda.com.md/141/ in Ziarul de Garda.

37c *In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.*

Score:	25
References:	Mihai Godea, Contract Centre Veaceslav Ionita, IDSI Viitorul
Social Scientist's Comments:	Parliament is the sole authority to decide over the general national spending, and by constitution executive bodies shall conform their activities to the legislative agenda. In fact, major policies are adopted by the government and often laws adopted by the Parliament are not properly implemented, and the legislature has no capacity to oversee, assess and intervene in the adjustment of the law-enforcing implementation of the legislation. The budgetary and economic committee is the specialized body of the Parliament in budgetary issues. It works in close hands with the Ministry of Finance.

Peer Reviewer's Comments: Moreover, Ministers refuse to come and report before the Parliament, and when they do so - reports are rather informal and useless.

38: Can citizens access the national budgetary process?

38a *In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).*

Score: 50

References: Law on the Budgetary System (No.381-XII of 29.11.1990)

Social Scientist's Comments: There are some procedures which are fulfilled, and there are others which deserve a greater effort. Most of the MPs are unprepared for such an effort, while the technical support is usually unevenly distributed in the Parliament, and the largest part of the MPs have no skillful assistance to provide them with additional advice by the moment of adopting the budgetary law.

Peer Reviewer's Comments: The draft law on the state budget is not being discussed at public events, such as round-tables or expert debates. Public, CSOs can submit their amendments via email, but these are often ignored. The process is pretending to be transparent. De facto, citizen participation is insufficient.

Peer Reviewer's Comments: There is a debate mainly between the ministries and parliamentary commissions, but little attention - and therefore contribution - from civil society. The media have access to key spending and income chapters from the draft budget law, but little influence over the process. The executive is obliged to consult its social partners - employers and trade unions - on budgetary issues of principle.

38b *In practice, citizens provide input at budget hearings.*

Score: 0

References: Vasile Spinei, ACCES INFO Association: www.acces-info.org.md

Social Scientist's Comments: Public hearings on budgetary issues are rarely used in Moldova as concerns the national budget. The Ministry of Justice is usually keen to present its draft to the Parliament without holding any kind of hearings beforehand, while the existing practices of hearings concern mostly local governments.

Peer Reviewer's Comments: The draft law on budget is presented by the Ministry of Finance.

Peer Reviewer's Comments: In law, the process is open for public participation, but ordinary citizens do not have any power or influence on the budgetary process. However, the government does take advice from think tanks and opposition groups (which later is often presented as its own).

38c *In practice, citizens can access itemized budget allocations.*

Score: 25

References: Vasile Spinei - Acces - Info : www.acces-info.org.md

Social Scientist's Comments: This can happen only a posteriori, after the law on annual budget or decisions on the redistribution of budgetary funds were adopted by the Parliament.

Peer Reviewer's Comments: The Draft Budget Law for 2008 can be accessed on the website of the Parliament of Moldova (<http://www.parlament.md/lawprocess/drafts/>)

Peer Reviewer's Comments: Some ideas, articles, or documents from the draft budget law get published on official websites and in the media. If you take a look at the Finance Ministry website, you will find some information about the budget (<http://www.mf.gov.md/ro/nationalbuget/>). The draft budget law for 2008, for example, can be extracted from the Parliament website (<http://www.parlament.md/download/drafts/ro/3435.2007.zip>). There is, however, low public concern for this issue. Usually, the budgetary debate begins in autumn, when ordinary people are busy preparing for the cold season - imagine a worker who has to choose between a search for an office paper and buying things that will be crucial for the survival of his family during the upcoming winter. Another problem is the low use of the Internet in Moldova. Studies show that less than 10 per cent of Moldovans have a personal computer and even less browse the web.

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

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

Score: YES

References: Law on the Legislative Acts (No.780-XV of 27.12.2001) Law on the Statute of the MPs

Social Scientist's Comments: A standing committee on budgetary, economic affairs does exist in the Parliament of RM. It shall in principle provide oversight on public funds, although it has only internal sessions, which are not informative to the public.

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

40a *In practice, department heads regularly submit reports to this committee.*

Score: 25

References: Vasile Spinei - Acces Info Association

Social Scientist's Comments: The Committee may call the Ministry of Justice, Ministry of Finance or any other ministers and heads of departments to present competent information on certain areas pertaining to their field of responsibility. This is how the Committee is informed about the overall economic policy of the state.

40b *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: Democracy audit: www.viitourl.org, www.iris-bd.org Democratic audit performed in 2003 by the IDIS on parliamentary affairs Mihai Godea, Contact Centre: www.contact.md

Social Scientist's Comments: Positions as heads of standing/special committees are distributed according to the number of seats/mandates in the last elections, therefore opposition members are usually not very much considered for leading positions. Between 2001-2005, the relationship between the ruling (Communist) party and the rest of the opposition parties was extremely tenuous. As a result, two consecutive resolutions on the situation of the political reforms in Moldova were issued and presented by the rapporteurs of the Parliamentary Assembly of the Council of Europe, and Moldova is STILL monitored by the Assembly on issues pertaining to the quality of democratic governance of the country.

40c *In practice, this committee is protected from political interference.*

Score: 0

References: Alin Radu- editor in chief of Ziarul de Garda; Democracy Audit in Bulgaria, Georgia and Moldova, printed in 2004 by IRIS, IDSI and CIPDD, with financing from NED: www.viitorul.org
Alexandru Tanase, lawyer, Center for Legal and Penal Studies

Social Scientist's Comments: Standing committees are not politically-protected, they are political bodies, and operate as platforms for crafting political consensus on the issues seen as legislative priorities on the agenda of the Parliament.

40d *In practice, when necessary, this committee initiates independent investigations into financial irregularities.*

Score: 25

References: Law on the Budgetary System - No.381 - XII of 29.11.1990 Procedural Regulation of the Parliament of RM

Social Scientist's Comments: Standing committees, as well as MPs, may call for an investigation on the use of public funds, and the specialized body that can undertake such tasks is specifically related to the Auditing Court, or to the Center for Curbing Corruption and Organized Crime. Parliament committees on their own have very limited human and material resources to investigate any of the cases that bring political inquiry into large-scale political debates.

Peer Reviewer's Comments: Special Parliamentary Commissions are established for public enquires proposes; However, these are known for producing reports that would protect the ruling party and absolve it from responsibility.

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

41a *In law, there are regulations requiring an impartial, independent and fairly managed civil service.*

Score: YES

References: Civil Service Law (No.443-XIII of 04.05.1995);
Web-page of the coordination unit of the central administration reform:
www.rapc.gov.md

Social Scientist's Comments: 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 function.

41b *In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.*

Score: YES

References: Civil Service Law (No.443-XIII of 04.05.1995)

Social Scientist's Comments: 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 clientelle-bound networks. In particular, the article provisions prohibits explicitly to the civil servants to be a member of 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.

41c *In law, there is an independent redress mechanism for the civil service.*

Score: YES

References: Civil Service Law (No.443-XIII of 04.05.1995)

Social Scientist's Comments: Art.30 of the law 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 time of dismissal.

41d *In law, civil servants convicted of corruption are prohibited from future government employment.*

Score: YES

References: Civil Service Law (No.443-XIII of 04.05.1995)

Social Scientist's Comments: Art 11 of the law prohibits recruitment of individuals who had been sentenced by a judiciary decision.

42: Is the law governing the administration and civil service effective?

42a *In practice, civil servants are protected from political interference.*

Score: 25

References: IDIS Monitoring Reports 2002, 2003, 2004, 2005: www.viitorul.org; Strategy of reform of the central public administration of the RM (No.1402 of 30.12.2005);
Center for Investigative Journalism: www.investigatii.md;
Ion Osoianu - Consolidarea capacitatii administrative pentru implementarea Planului de actiuni UE - RM, 2006, DFID

Social Scientist's Comments: In practice, civil servants are very dependent on the changes/reshuffles of the government. After 2001, with the victory of the Communist Party, the Cabinet of Ministers went through major reshuffles, which meant in practice a political cleansing and exams on loyalty to the party in power. Without a strong emphasis on the civil service impartiality and neutrality, people employed by the government have a difficult time to accommodate with the new political cycles; political influence of the presidency is extremely high, where the president is concomitently the head of the ruling party (first secretary), and the leading ministers belonging only to one majoritarian party. The same is usually replicated at the local governmental level.

Peer Reviewer's Comments: Civil servants' system is based on political appointments and has not been yet reformed towards career appointments.

42b *In practice, civil servants are appointed and evaluated according to professional criteria.*

Score: 25

References: Ion Osoianu, Casa Europei Association, June 2007 Sergiu Tatarov, Advisor to the Prime-Minister of RM, May 2007

Social Scientist's Comments: 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 one single central administrative body in charge with civil service reform and human resource management in the government. This Agency is promised by the on-going strategy of reforms in the central administration, which 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 the civil servants.

Peer Reviewer's Comments: I agree with the reviewer that the civil service is a mess (to paraphrase). But the reason is more due to lack of capacity than to politicisation like the kind you see in Latin America, Asia, and Africa.

Peer Reviewer's Comments: Public competitions and selections through a Board of Experts are not yet enrooted in Moldova in terms civil servants' appointment.

Peer Reviewer's Comments: The civil public service in Moldova is not based on a normal rotating system which exists in industrialized countries. Rather, it heavily depends on who wins the election. 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. While studying at the Academy of Public Administration in

2000-2001, I met average ranking public servants who were pursuing an administrative or diplomatic training, in order to make their posts compatible with their level of education. I met mayors, chiefs of various government departments, and police officers.

42c *In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.*

Score: 25

References: Ion Osoianu : www.expert-grup.org/pub/expert/osoianu.pdf;
Marianne Mikko. Member of the EU Parliament, chairwoman of the Committee on Interparliamentary Cooperation RM - EU, March 27, 2006, in Chisinau, Jurnal de Chisinau, No.468, April 4, 2006;
Law on Combatting Corruption and Protectionism (NO.900 of 27.06.1996);
Transparency International - Moldova;
Center for the Analysis and Prevention of Corruption: www.capc.md

Peer Reviewer's Comments: Again, compared to other countries, Moldovan agencies are not so bad. Most of the Moldovans I know never knew each other before working in their dept.

Peer Reviewer's Comments: Management decisions are often arbitrary and it is common the practice of firing good professionals in order to make available a seat for a relative or friend. For example, at the MFA appointments of Ambassadors are being done based on merits before the Communists Party: a number of Ambassadors are member of the party who do not speak a foreign language and have no diplomatic experience/education.

Peer Reviewer's Comments: Many hirings are based on loyalty towards the ruling party. On 25 October 2007, President Voronin, for example, announced that he would appoint Ion Ursu, chief of the domestic security service, as ambassador to Greece. Mr. Ursu does not have a diplomatic training, but he has been a loyal supporter of the communist administration in cracking down on opposition and independent media.

42d *In practice, civil servants have clear job descriptions.*

Score: 0

References: Ion Osoianu, Letter of intent, Moldova - IMF: www.imf.org/external/np/loi/2006

Social Scientist's Comments: 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, which are fully subordinated to the political appointees, aproved by the ruling party. Central administration reform aims to build up efficient governance to the standards of the EU mebmer-states. The reform calls for the re-organization of 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 reconfiguring the structure of the central executive institutions.

Peer Reviewer's Comments: Moldovan government institutions dont have the HR practices we have in the EU. But its not true that civil servants just hang out and do whatever their told (or whatever they want). Executive instructions mandate how depts work. Individual civil servants have tasks given by their bosses. I've not seen alot of reshuffling in the departments Ive advised.

Peer Reviewer's Comments: The government lacks a 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. Moldova has experienced two administrative-territorial reforms - one in 1998 (from the Soviet system to a modern, decentralized organization), and another in 2002 (backwards). The second reform was seen by ADEPT, IDIS, Expert-Grup and other think tanks as a measure to reward the supporters of the Communists, who won the elections, and to further control the local public administration. The functions between the first level and second level local authorities that appeared as a result of these movements are still unclear under many aspects and sometimes conflicting. See Law on Local Public Administration, Law on Status of Public Functionaries.

42e In practice, civil servant bonuses constitute only a small fraction of total pay.

Score: 25

References: Law on Salaries (No.847-XV of 14.02.2002)

Social Scientist's Comments: According to the art.4, wages include the payroll (tariff salary of the function), supplementary salary (bonuses, additional payments) and other incentives to the salary, and this structure of the wage is generally applied to the civil servants' remuneration.

Peer Reviewer's Comments: Official bonuses in FSU countries have always been seen in a negative light. Bonuses are bad from a financial framework as well (makes disbursements less predictable in a system that doesn't deal at all with contingent payments).

Peer Reviewer's Comments: In reality, few people know how much a civil servant earns, because the information on pay is not made public. I was in a severe conflict with the National Securities Commission for attempting to count the earnings of Moldovan parliamentarians.

42f In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

Score: 25

References: UNDP country program for the Republic of Moldova (2007 - 2011): www.undp.md/publications/doc

Social Scientist's Comments: There are no public announcements for the governmental positions. 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.

Peer Reviewer's Comments: There are phonebooks, organisational charts, announcements for jobs, etc.

Peer Reviewer's Comments: The Academy of Public Administration is affiliated to the Presidential Palace of Moldova.

Peer Reviewer's Comments: While the government does not disclose generally the number of available positions, it yet advertises via the media for positions it wants to fill in. In addition, the official websites contain the structure of the respective authority and employment opportunities. See http://www.mai.md/functii_vacante/, http://www.mai.md/structura_ro/ (Interior Ministry), or <http://www.mf.gov.md/ro/about/organigrama/> (Finance Ministry), or <http://www.maia.gov.md/structure.php?l=ro> (Agriculture Ministry). Whether the selection contest is transparent or not is a different matter.

42g *In practice, the independent redress mechanism for the civil service is effective.*

Score: 25

References: Transparency International - Moldova: www.transparency.md - National Integrity System in Moldova

Social Scientist's Comments: The system of redress mechanism is almost inexistent, as there is no a specialized body that would manage the corp of professional civil servants. As a result, political influences and links are consistently penetrating the specific instruments through which civil servants are usually recruited or dismissed.

Peer Reviewer's Comments: I think the problem is administrative failure and lack of resources more than poltiicisation...

42h *In practice, in the past year, the government has paid civil servants on time.*

Score: 100

References: Official site of the coordination group for the implementation of the central government reform: www.rapc.gov.md;
Official site of the coordination group for the implemntation of the strategy on poverty reduction and economic growth: www.scers.md;
Transparency International - Moldova: www.transparency.md

Social Scientist's Comments: 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. To 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 accomplished. The salary- increase followed the logic of the age-experience, 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.

42i *In practice, civil servants convicted of corruption are prohibited from future government employment.*

Score: 50

References: Civil Service Law (No.443-XIII of 04.05.1995)

Social Scientist's Comments: 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.

Peer Reviewer's Comments: In any case, there are so few cases of successful convictions that a check is even unnecessary. Moreover, even of those who are convicted, many successfully appeal the decision.

Peer Reviewer's Comments: There were cases when a civil servant accused of money laundering at Teleradio-Moldova, was sent Ambassador to Israel. He is member of ruling party.

Peer Reviewer's Comments: Dan Barcari, a police officer was convicted on 30 October 2007, on charges of blackmail and bribe. He was prohibited, among others, to hold any job in the national police force for five years.

43: Are there regulations addressing conflicts of interest for civil servants?

43a *In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.*

Score: YES

References: Civil Service Law (1995)

Social Scientist's Comments: The law refers to the avoidance of conflicts of interests, where civil servants should step back or declare about a situation in order to avoid corruption or favoritism. Nevertheless, the legislation does not provide specific regulatory mechanisms that would completely cure the system of the public sector from nepotism and blatant corruption cases, therefore the existing legislation on civil service is completely inadequate for this purpose. No specific provisions in the acting law allows civil servants to recuse themselves from policy decisions where their personal interests may be affected.

43b *In law, there are restrictions for civil servants entering the private sector after leaving the government.*

Score: NO

References: Civil Service Law (No.443-XIII of 04.05.1995)

Social Scientist's Comments: No such provisions apply to the civil servants in Moldova.

43c *In law, there are regulations governing gifts and hospitality offered to civil servants.*

Score: NO

References: Civil Service Law Transparency International - Moldova: www.transparency.md

Social Scientist's Comments: The legislation stipulates that civil servants shall not receive gifts or other polite signs for their services provided in office (art.11 - restrictions). The law does not regulate what is the range of gifts and polite signs that could be accepted and when. Other specific rules, concerning the way of behavior of the civil servant when he may receive gifts, favors or benefits of other kind, as well as the evidence, presentation and utilization of these gifts within the framework of protocolar/international covenants, are almost inexistent. Therefore no governmental body would keep special registrars of gifts, and no kind of control over the acceptance or utilization of gifts is currently in place in Moldova.

43d *In practice, the regulations restricting post-government private sector employment for civil servants are effective.*

Score: 0

References: Civil Service Law (No.443-XIII of 04.05.1995) Transparency International - Moldova

Social Scientist's Comments: There are no effective or formal rules restricting civil servants to be hired after leaving the government in the field that they have earlier managed or overseen.

43e *In practice, the regulations governing gifts and hospitality offered to civil servants are effective.*

Score: 25

References: Lilia Carasciuc - Transparency International Moldova: www.transparency.md

Social Scientist's Comments: Gifts and other hospitality signs received by the public officials are not registered or codified by a special registrar. Many other extra-payroll benefits are received free of charge by the top-level officials of Moldova and by mid-level officials, on the presumption of their full isolation from public oversight and control.

Peer Reviewer's Comments: Comments above indicate a 0 grade.

43f *In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.*

Score: 25

References: Civil Service Law (1995)

Social Scientist's Comments: Art.13 provides a number of cases where conflicts of interests can take place, and which shall be avoided by the enrolled civil servants. In practice, there are public suspicions about the quality of public acquisitions.

Peer Reviewer's Comments: In the public administration of the capital, for example, many heads of departments and districts took part in contests or favored close people who claimed public contracts. The new mayor, Dorin Chirtoaca, admitted that he discovered a close-knitted network of interests in his administration, in such issues as construction, land sale, transportation. There are insistent allegations that President Vladimir Voronin had ordered removal of the minibus service from the central avenue in Chisinau in order to make room for his son, a banker and businessman who has been looking for stakes in almost everything in Moldova.

44: Can citizens access the asset disclosure records of senior civil servants?

44a In law, citizens can access the asset disclosure records of senior civil servants.

Score: YES

References: Law on Declarations and Control of Incomes and Estate Properties (no.1264-XV of 19.07.2002) Law on Access to Information (no.982-XIV of 11.05.2000)

Social Scientist's Comments: Income declarations shall be posted on a webpage of the ministries or state agencies, in a transparent and systematic order. Disclosure of the assessts and incomes is equally regulated by the law.

44b In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

Score: 0

References: Transparency International Moldova: www.transparency.md; Center for Investigative Journalism: www.investigatii.md

Social Scientist's Comments: In practice, disclosure acts are rarely used, and mass media have to fight hard in order to depict declarations, and usually politicians or civil sevants 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', mass media often pay painful fines, and are generally cautious to lose in court cases against top-level officials, which are politically and judiciary advantaged.

Peer Reviewer's Comments: These data are not easily available (and I dont blame the Moldovan authorities for their decision to keep this information private).

Peer Reviewer's Comments: 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. Regular people do not know about the Law on Access to Information, in first instance. When they know about it, they are highly skeptical about the outcome, and choose to save "time and nerves". Public trust in civil servants is significantly low as it is seen as a corrupt environment.

44c In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

Score: 0

References: Center for Investigative Journalism www.investigatii.md; International Transparency - Moldova: www.transparency.md

Social Scientist's Comments: There is no such practice that information which is banned by civil servants can be aquired or purchased at a high price. Only confidential information can be accessed by mass media and used in investigative reporting.

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

45a *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: Law on Corruption and Protectionism (No.900- of 27.06.1996)

Social Scientist's Comments: The law does not provide specific guarantees against recrimination to those who report cases of corruption, graft, abuses of power. The law provides a list of responsibilities to the civil servants to counteract corruption, graft, abuse of power situations.

Peer Reviewer's Comments: In the civil service law, there is undoubtedly provision against unfair dismissal.

45b *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: Lilia Carasciuc, Transparency International - Moldova: www.transparency.md;
Center for Investigative Journalism: www.investigatii.md

Social Scientist's Comments: In practice, there are no effective ways to protect civil servants against recrimination.

45c *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: Law on Corruption and Protectionism (900 of 27.06.1996) Decree on the Coordinational Council on the affairs of curbing corruption and Protectionism (NO.238-III of 29.01.2001) Civil Service Law (No.443-XIII of 04.05.1995) Law on the Declaration and Control of Incomes and Estate Properties of the State Officials (No.1264-XV of 19.07.2002)

Social Scientist's Comments: No specific provisions concerning guarantees of protections are provided to those who may report cases of corruption. The government re-established a channel of 'anonymous' reporting on various violations, which is quite an ambivalent mechanism of collecting public feedbacks. But this way may be equally a destabilizing tool for the whole system of civil service, as it can be used as a reason of arrests of public officials without the sanctions of the prosecutor, corporal control, etc.

45d *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: 25

References: Center for Investigative Journalism: www.investigatii.md;
Transparency International - Moldova: www.transparency.md

Social Scientist's Comments: Reporting cannot be done without losing your job in the private sector. There are no legal provisions that would keep people in place after informing the specialized body of the state on corruption or other incriminatory cases in the private or public sector. On the other hand, the issue of anonymous notifications to the centre or the Confidential Phone-line can provide an apparent confidential possibility for reporting corruption cases.

Peer Reviewer's Comments: Comments above are equal to 0 grade.

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

46 *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: Decision on the approval of the strategy on curbing corruption, money laundering, and terrorist financing and its action plan (NO. 632 Of 05.06.07); Decision of the government on some measures to prevent corruption and protectionism (NO.615 of 28.06/.2005)

Social Scientist's Comments: The strategy stipulates a number of measures to ensure conditions for notifying the specialized bodies on the cases which fall under the incidence of the Law on Curbing Corruption, etc, such as: confidential secured phone lines, notification boxes. The governmental decision stipulates also e-mail addressed where anonymous messages can be sent to notify/report on corruption cases.

Peer Reviewer's Comments: Almost all central public authorities and agencies have installed phone hotlines to collect complaints on corruption from ordinary citizens.

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

47a *In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.*

Score: 25

References: Transparency international - Moldova: www.transparency.md
Center for Investigative Journalism: www.investigatii.md

Social Scientist's Comments:

The largest part of the ministries and agencies of state in Moldova do not have internal audits, and often they perceive audits in terms of financial controls rather than a modern and effective managerial assistance tool, thereof the idea that some of the internal work shall be done professionally by people holding accountability for the ordered, timing reporting mechanisms seem to be at odds with the institutional realities in many of the state/public organizations in Moldova. The only law that stipulates the existence of an internal audit was, in 2006, the Law on Decentralization, but the implementation of this provision is still blocked by ambiguities related to the over-centralized-minded central government.

47b *In practice, the internal reporting mechanism for public sector corruption receives regular funding.*

Score: 0

References: Civil Service Law Law on the Government of Moldova Law on Local Public Administration, etc Decision of the Government on the overall functioning of the internal audits and internal controls in the public organizations (No.1143 of 04.10.2006)

Social Scientist's Comments:

Internal audits do not exist in Moldova, as they are functioning in the western countries. Only in 2006, a decision of the government provided a concept on internal audit and internal controls, and according to the concept of the internal auditing system, most of the public authorities/organizations shall be assisted to create their internal monitoring systems, a process which is far from being launched so far in Moldova.

47c *In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.*

Score: 25

References: Decision of the Government on the Concept of the internal audits and internal controls

Social Scientist's Comments:

Internal audits are not yet in place.

Peer Reviewer's Comments: Complaints are mainly ignored, but, if addressed, they are often protecting the person accused of corruption (if this is not from opposition).

Peer Reviewer's Comments: Although rarely, some agencies do react to complaints against their own staff. The Interior Ministry, for instance, sometimes reveals that it arrested a police officer on charges of bribery, disclosing the period of investigation and time of reporting.

47d *In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.*

Score: 25

- References:** Law on Fighting Corruption and Protectionism Law on the Center Fighting Corruption and Organized Crime
- Social Scientist's Comments:** The principal 'fighter' against corruption in Moldova is the Center. It is suspected to act on political commandments, and therefore, it is suspected to challenge only those individuals who are associated with the opposition parties. The lack of transparency and visible unaccountable to legislative statute of the Center create additional obstacles in its functioning. Lacking other internal mechanisms of assessing the rationality or conformity of decisions taken by some of the governmental bodies the discrepancies between the objectives pronounced by the Strategy on fighting corruption and the effective results achieved so far is striking!
- Peer Reviewer's Comments:** I completely agree with the reviewer on the previous questions concerning internal audit.
- Peer Reviewer's Comments:** The Center for the Struggle against Economic Crimes and Corruption, although under heavy pressure from the government and under influence of political decisions, sometimes initiates investigations against employees suspected of corruption, says an officer in the Center and friend of mine who asked not to be named in the report. But the cases never or rarely reach a courtroom, and they never go public. Usually, the agency does not "turn over" its employees, and there were very few convictions in the past. When things stink, the government simply initiates a reorganization of the agency, which means a reshuffle or cleansing among investigators. There were two reorganizations of the Center so far, and two reorganizations of its predecessor agency - the Anti-Corruption Department.

48: Is the public procurement process effective?

48a In law, there are regulations addressing conflicts of interest for public procurement officials.

Score: YES

References: Law on the Acquisition of Goods, Works and Services for the Needs of the State (No.1166 of 30.04.1997)

Social Scientist's Comments: The law aims to ensure the efficiency and economy in preparing necessary acquisitions for the state needs, involving a larger number of providers, and the well-governance of established rules and procedures that would guarantee fair and honest participation of the interested parts. A special agency on the material resources, public acquisitions and humanitarian assistance is established (art.5), There are regulations addressing conflicts of interest.

Peer Reviewer's Comments: The website of that agency is www.tender.gov.md or www.tender.md.

48b In law, there is mandatory professional training for public procurement officials.

Score: YES

References: Civil Service Law Law on the Material Resources, Works and Services for the State Needs source: www.moldova-suverana.md/index.php?start_from

Social Scientist's Comments: Since 2005, with the amendments of the Law on procurement of goods, works and services to the needs of state, the Agency of Material Reserves, Public Procurement and Material Aids has delegated a part of its functions to the beneficiaries, in order to decentralize the existing system. So, rayon administrations (districts) and Chisinau Municipality set up new positions in Public Procurement (Acquisitions), in charge to run contracts under 100.000 lei (US\$8,689). Only in 2005, they considered and agreed upon with state beneficiaries over 11,684 of contracts, estimated at 524 million lei (US\$45.5 million).

48c In practice, the conflicts of interest regulations for public procurement officials are enforced.

Score: 25

References: Efim Obreja, TI-Moldova, in Businessul Moldovei, Aug. 30, 2006, www.transparency.md/docs/2006/bus_mold30aug2006ro; Millenium Challenge Account, Preliminary Country Plan of the RM, presented by Zinaida Grecianni on Sept. 12, 2006

Social Scientist's Comments: Public procurement in Moldova is suspected of corruption. Legislation on public procurement is not satisfactory, while the amendments made by the legislative to the existing laws have not deterred corruption and abuses. Experts claim that even the concept of 'public procurement' is badly defined in conceptual terms. Some of its provisions (art.3) provide a list of economic sectors in which the law shall not be applied, which is in divergence with the main principle for a market economy, thus providing free monopolies, while leaving important fields (like, medicine, transportation means, construction and infrastructure) outside of the real transparent scrutiny. Art.7 omits to define one of the most important functions for public procurement, exactly the organization of public procurement tenders, sending invitations to the enterprises which want to bid, elaboration of documents, etc. Similarly, although a state national agency on public procurement is stipulated, the law does not define what is its legal statute, structure, organization and functioning, recruitment mechanisms, internal control and responsibilities. The law provides a wrong incentive towards corruption as it suggests (art.29) that this can be initiated only by the private agents, which, in reality, is totally the opposite. Equally unclear is how decisions are made on the successful bidders (art.20) by a jury, because there is no any provision that would regulate its formation

and functioning. The Strategy on Fighting Corruption (2004) stipulates some measures of organizing public training on conflict of interests, notification of corruption cases, investigative journalism, ethical code and access to information.

Peer Reviewer's Comments: In addition, many major procurement contracts are negotiated directly, by the government. The capital's administration, too, used to practice no-contest events. That happened with the reconstruction of the Military Glory Memorial, reconstruction of Pan Halipa street, reconstruction of the Komsomol Late, reconstruction of bus stops in Chisinau. The media alleged that all these contracts were won thanks to corrupt officials. The Auditors Court later published its findings, which say the contract award process was done with grave errors and public spending was exaggerate.

48d *In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.*

Score: NO

References: Law on the Acquisition of Goods, Works and Services for the Needs of the State (No.1166 of 30.04.1997)

Social Scientist's Comments: From this law it is totally unclear who are the public servants that deal with the enforcement of the regulatory framework for public procurement.

48e *In law, major procurements require competitive bidding.*

Score: YES

References: Law on Procurement of Goods, Works and Services (No.1166 of 30.04.1997)

Social Scientist's Comments: The law stipulates several forms of public procurement (art.18), which emphasize the competition as a basis for public procurement. Nevertheless, it includes also procurement from one source, among other forms of procurement such as: two-state tenders, limited participation tenders, tenders with price commercial offers, procurement via the National Bursery of Goods, etc.

48f *In law, strict formal requirements limit the extent of sole sourcing.*

Score: YES

References: Law on Procurement of Goods, Works and Services (No.1166 of 30.04.1997) Decision of the Government of RM on the management and control regime of the public procurement (No.67 of 01.07.1999)

Social Scientist's Comments: Announcements on public procurements are posted by law in the Public Procurement Bulletin, edited by the Agency for Material Reserves, Public Procurement and Humanitarian Aids (www.tender.md). On its website, the Agency stores the data base of the implemented (past) tenders, as well as on-going tenders. A governmental decision dated in 1999 stipulates that the 'mechanism of coordination and approval of the documents for tenders, is to be set by an inter-ministerial agreement (!), which is in blatant contradiction with the legislation (adopted in 1997), providing non-transparent incentives to the implementation of tenders.

48g *In law, unsuccessful bidders can instigate an official review of procurement decisions.*

Score: YES

References: Law on Procurement of Goods, Works and Services (No.1166 of 30.04.1997)

Social Scientist's Comments: By law, participants submitting their commercial offers (bids) have a legal right to contest/challenge the final decision taken by the Agency (art.46). As a first step, the unsuccessful bidders may contest/challenge this decision to the Agency, requesting explanations, although there is a list of cases when no challenges are admitted (46-2). However, if the response from the Agency fails to be satisfactory, the contestor may sue the Agency, according to the Administrative Code (Contenciosul Administrativ).

48h In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Score: YES

References: Law on Procurement of Goods, Works and Services (No.1166 of 30.04.1997)

Social Scientist's Comments: Unsuccessful bidders can challenge procurement decisions in a court of law on administrative code (art. 50 of the Law on Public Procurement). By law (art.48), the Agency shall inform all providers about the initiated challenge, as soon as it receives it from the unsuccessful bidder, and thereof, all providers whose interests might be affected by this challenge of the decision have the right to participate in the public consideration of this request. After deliberations, the Agency issues a final decision on the case that has been considered, under conditions that this decision is not of public use if it may jeopardize public interests, contractual obligations and legislation (art.48-3).

48i In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Score: NO

References: Law on Procurement of Goods, Works and Services (No.1166 of 30.04.1997)

Social Scientist's Comments: Art.48 of the law stipulates only that commercial offers are not accepted if there were confirmed cases of corruption on behalf of the participant. It says nothing about the past records of the participants, whether these records may prove that they could have been displayed a law-nihilistic attitudes in the past, or their managers, representatives, have been even convicted for their fraudulent activities.

48j In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Score: 0

References: Center for Investigative Journalism: www.investigatii.md; Transparency - Moldova: www.transparency.md Efim Obreja, Senior Lawyer; Alina Radu, Ziarul de Garda, July 20, 2007

Social Scientist's Comments: No track records of the companies which have been depicted by the Auditing Court as participants in corruption deals are prohibited from tenders, in a black-list of firms or another form.

Peer Reviewer's Comments: On the contrary, the violator is often hired to complete various contracts that lack transparency. The firm Stayer SRL, for example, has completed many public orders from the government, and its director Vladimir Boldovici was named last July as head of the Construction and Area Development Agency. This firm also built the office building of the ruling Communist Party in Chisinau. See article in Jurnal de Chisinau: <http://www.jurnal.md/article/3854/>. The Auditors Court found and the local public authorities confirmed that the damage to the public budget from this firm was enormous.

49: Can citizens access the public procurement process?

49a *In law, citizens can access public procurement regulations.*

Score:	NO
References:	Website of the Agency for Material Reserves, Public Procurement and Humanitarian Aid: www.tender.md
Social Scientist's Comments:	The website has been just launched in 2007, and it is still 'under construction'. The website does not include the archive of the Bulletin of public procurement (aquisitions), which is the main informational tool of the Agency, nor it has interactive channels where citizens would be able to access or comment some of the functional aspects of the tendering procedures.
Peer Reviewer's Comments:	Some laws are available in Russian.
Peer Reviewer's Comments:	One has to bear in mind that internet usage is law; therefore citizens cannot access these regulations.
Peer Reviewer's Comments:	The Law on Procurement of Goods, Works and Services (No.1166 of 30.04.1997) does not include special provisions on public access to procurement regulations. However the Website of the Agency for Material Reserves, Public Procurement and Humanitarian Aid: www.tender.md is currently being built and already includes a large archive, which will be probably extended.
Peer Reviewer's Comments:	Actually, the website www.tender.md does have an archive, but I agree with the author, because it is irrelevant. The future contests are listed as "current tenders", and once the date remains behind, the contests are moved into "past tenders" and "archived tenders". There is no information about who won the contests, what were the conditions, or what was the cost.

49b *In law, the government is required to publicly announce the results of procurement decisions.*

Score:	YES
References:	Website of the Agency for Material Reserves, Public Procurement and Humanitarian Aid: www.tender.md
Social Scientist's Comments:	The main responsible for the organization of public procurement bids is the Agency for Material Resources and Public Procurement (art.5). It publishes a monthly Bulletin where all announcements and conditions of the public procurement bids are presented to the interested agencies. In 2006, the Agency announced 2,353 tenders for the procurement of food, oil and energy resources, equipment, medicines, services, as compared with 1691 tenders in 2005. It seems that the Agency faces resistance from the state bureaucracy in organizing public tenders/bids (see: Report of activities of the Agency for 2006 - www.tender.md/rom/news/28/). Sometimes this results in long and unjustified delays of these tenders, thus artificially creating tensions and accumulation of large quantities of demands to be met by the bidders, while many beneficiaries do not apply sanctions against unreliable providers that do not apply exactly the conditions of the tenders, etc.

49c *In practice, citizens can access public procurement regulations within a reasonable time period.*

Score: 50

References: Ziarul de Garda : www.garda.com.md/130/investigatii;
TACIS Study on the implementation of the Partnership and Cooperation Agreement. Comparative Study on public procurement, D. Cernei
www.pca.md/files/publications311.pdf

Social Scientist's Comments: Cases of public funds used to avoid the formal rules governing the organization of competitive bids are frequently reported by independent mass media.

Peer Reviewer's Comments: The cases presented by the reviewer and the big, sensational ones. I think if a company asked an official for the regulations (or contacted MoJ), he or she would get them.

Peer Reviewer's Comments: All Regulations are available on-line on the site of the National Agency for public procurements www.tender.md

Peer Reviewer's Comments: Other sources of information are Jurnal de Chisinau www.jurnal.md, Timpul www.timpul.md, Center of Journalist Investigations www.investigatii.md.

49d *In practice, citizens can access public procurement regulations at a reasonable cost.*

Score: 50

References: Alina Radu - Ziarul de Garda;
Center for Investigative Journalism: www.investigatii.md

Social Scientist's Comments: Citizens have to purchase the Newsletter edited by the Agency for Material Reserves, Public Procurement and Humanitarian Aids. They can also access the website of the Agency(www.tender.md), where they can find out the announced bids and the on-going tenders.

Peer Reviewer's Comments: As mentioned by the Social Scientist, the regulations and bid announcements are made public, both on the site and in the newsletter published by the national Agency for Public Procurements.

49e *In practice, major public procurements are effectively advertised.*

Score: 75

References: Law on Material Resources, Public Procurement, Humanitarian Aids;
Transparency International - Moldova, Prevenirea si combaterea coruptiei in RM: aspecte teoretice si practice:
www.transparency.md/docs/2004/2004_conferinta.pdf;
Action Plan on Curbing Corruption and Rule of Law, Decision of the Government of RM of 18.11.2003

Social Scientist's Comments: Public procurement needs to be reformed and modernized. It is regarded as a major subject for improvement in the Action Plan EU/RM, which implies consistent efforts on behalf of the Moldovan authorities.

Peer Reviewer's Comments: The major complaint of bidders is linked to tight timeframe, which makes it impossible sometimes to take part in a tender.

Peer Reviewer's Comments: However, the selection process is nontransparent and disputable.

49f *In practice, citizens can access the results of major public procurement bids.*

Score: 75

References: www.investigatii.md;
Ziarul de Garda, Alina Radu;
Efim Obreja, Viorelia Gasca, Teodor Potirniche Public Procurement and Public Ethics, A Focus on Fighting Corruption, www.transparency.md

Social Scientist's Comments: Usually, successful winners of the tenders organized by the Agency are published on the website (recently, since the website has been officially opened in 2007), and equally, in the monthly Bulletin on Public Procurement. There are important rumors that some of the tenders are not exactly following the formal procedures, and public money is spent in avoidance of the law. Independent mass media have vociferously contested in the past years how official limousines are purchased by the State Chancellery, or how humanitarian aid is distributed, and how public officials have used their positions to facilitate/connect their business to the major bids, with no or almost no reactions from the judiciary. Often journalists have been sued for defamation, instead of fair and equitable investigation of the reported cases by responsible agencies.

Peer Reviewer's Comments: Citizens' access is limited by the price they have to pay for the Bulletin or poor access to internet.

50: Is the privatization process effective?

50a *In law, all businesses are eligible to compete for privatized state assets.*

Score: YES

References: Law on Privatization (No.627-XII of 04.07.1991)

Social Scientist's Comments: By law, participants to the privatization (art.4) can be: legal or physical persons (with the exception of local authorities, state enterprises and municipal agencies, organizations receiving funding from the state budget or from the local budgets), legal and physical persons residing abroad, apatrids. Participants to privatization can participate directly, or they can delegate their own representatives as mandatory persons.

50b *In law, there are regulations addressing conflicts of interest for government officials involved in privatization.*

Score: NO

References: Law on Privatization (No.627-XII of 04.07.1991)

Social Scientist's Comments: No specific provisions or regulations on addressing conflicts of interest can be found in the law on privatization. The provisions are very dubious and general. No special investigation is cast (was cast in the past decade) whether the officials in charge with privatisation responsibilities had relatives involved in transfers of properties. No due reports on the assets and values owned by officials at the beginning of their taking the office, and when they have left the office, no restrictions on carrying out commercial activities for former civil servants.

Peer Reviewer's Comments: The Civil Service and AC laws cover officials responsible for privatisation.

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

Score: 25

References: Public Economic Management Assessment, Report, No.25423/MD, March 24, 2003

Social Scientist's Comments: The privatization department performs some routine oversight of the participants in the privatization process, but this is seen as not usually satisfactory.

Peer Reviewer's Comments: Since there are no provisions in law on conflict of interests, there is no legal ground on which to regulate such infringements or enforce proper conduct.

51: Can citizens access the terms and conditions of privatization bids?

51a *In law, citizens can access privatization regulations.*

Score:	YES
References:	Law on Privatization (No.627-XII of 04.07.1991) amended by the Law (No.100-XV of 07.03.2003)
Social Scientist's Comments:	The law stipulates that privatization shall be based on equal access and equality of rights for all participants, on public access to information and transparency of the whole process, and on legality (art.2). The State Department for Privatization shall inform the public on the potential investors on the main objectives and results of the privatization.

51b *In practice, privatizations are effectively advertised.*

Score:	50
References:	Cine a compromis ideea privatizarii (I si II) - www.investigatii.md/index.php?art=236 Ziarul de Garda, No.12 - 14 , October 2004 - Interview with V.Balan, head of the Council of the Director for the Centre fighting Organized Crime and Corruption www.gov.md The inception of the Privatisation Program went very well in Moldova, receiving a large public support and recognition of its overall positive outcome. It got support from US Government, and advertised mass privatization, with a huge plethora of resources and arguments. In the last 6 years, privatisation simply disappeared from political agenda of the ruling party, Communist party, and only recently a new privatisation campaign was announced by the Ministry of Economy and Trade, but without a special agency supervising and advertising about the conditions of it. Therefore, no, privatization is not well advertised and properly informed.
Peer Reviewer's Comments:	Privatization of major assets are advertised by the Ministry of Economy and Commerce (www.mec.gov.md), and in Monitorul Oficial, in Moldova Suverana, Nezavisimaya Moldova, other publications. Many journalists admit, however, that some assets may be privatized without prior announcement. This concerns especially the land in the capital, whose price is skyrocketing.

51c *In law, the government is required to publicly announce the results of privatization decisions.*

Score:	YES
References:	Law on Privatization (No.627-XII of 04.07.1991)
Social Scientist's Comments:	The law stipulates specific responsibilities to the Department of Privatization, which shall strictly respect the regulations on the field of mass-scale or targeted privatization operations.

51d *In practice, citizens can access privatization regulations within a reasonable time period.*

Score:	50
References:	Transparenc International - Moldova; www.allmoldova.com/index.php?action=newsblock&i ; Opportunities for Accelerated Economic Growth: Moldova, Economic Memorandum Sept. 9, 2005 www.worldbank.org
Social Scientist's Comments:	Results of the privatization are published in a Newsletter of the Department of Privatization. On a monthly basis, citizens can access their results.

Peer Reviewer's Comments: This seems like an okay procedure, given the procedures used in other countries...

Peer Reviewer's Comments: Access to politically sensitive cases is limited under the "commercial interest" hat.

51e *In practice, citizens can access privatization regulations at a reasonable cost.*

Score: 75

References: Monitorul Oficial, regular publication of the legislation and normative acts issued by the public authorities of the Republic of Moldova :
www.lex.md/moldlex;
Moldpress: www.moldpres.md

Social Scientist's Comments: Costs of the newsletters publishing normative acts in Moldova are relatively low.

Peer Reviewer's Comments: I would think the cost of getting these paper copies would be high.

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

52 *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 17.10.1997)

Social Scientist's Comments: The law establish the office of parliamentary attorneys - three in number - which substitutes the office of the ombudsman, operating on the basis of a Center for Human Rights, located in the capital of Moldova.

53: Is the national ombudsman effective?

53a In law, the ombudsman is protected from political interference.

Score: YES

References: Law on Parliamentary Attorneys (No.1349-XIII of 17.10.1997)

Social Scientist's Comments: By art.8, the parliamentary attorneys shall be appointed by the Parliament. They cannot belong to political parties or undertake political activities. In exercising their mandates, parliamentary attorneys shall follow only the principles and spirtly of the constitution, abide the legislation, and they shall be fully independent from the Parliament, government or president, although there is a specific mechanism that allows the Parliament to recall them (with 20 mandates/votes, which is quite an easy way to block initiatives that would endanger some political interests).

53b In practice, the ombudsman is protected from political interference.

Score: 25

References: www.investigatii.md

Social Scientist's Comments: In practice, attorneys are very vulnerable to political influences. Once they can be recalled with a limited number of votes, they are sensitive to that, and, usually, make no important decisions or interventions that would be perceived as threatening to the ruling party leaders.

53c In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

Score: 25

References: Law on Parliamentary Attorneys (No.1349-XIII of 17.10.1997) Victor Popa, PhD in Law, Professor of ULIM - June 10, 2007

Social Scientist's Comments: Art.9 says that Parliament can call back the attorneys with 20 votes of the MPs of by the president. The same article stipulates a list of cases when attorneys can lose their mandates: pension, health, personal reasons, etc.

53d In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

Score: 50

References: Law on Parliamentary Attorneys (No.1349-XIII of 17.10.1997)

Social Scientist's Comments: By art.11, parliamentary attorneys are assisted in their work by technical staff. They are entitled to consider claims from the citizens of RM which are presented in written form. The structure and regulation that runs the Center for Human Rights has been approved by the Parliament.

Peer Reviewer's Comments: I have visited the Human Rights Center in April, to establish contacts between the ombudsman's office and my organization. Staff there complaint that they were unable to effectively handle all complaints from citizens. They also said they were not enjoying full confidence of ordinary people, who prefer to lodge cases with the European Court of Human Rights, rather than the national ombudsman.

53e In practice, agency appointments support the independence of the ombudsman agency (or agencies).

Score: 50

References: Center for the Human Rights in Moldova www.ombudsman.md
www.transparency.md/news/ro.20061211.htm www.humanrights.md

Social Scientist's Comments: The Center provides regular annual reports to the Parliament of RM on the overall situation of human rights (see - www.parlament.md/download/standingcommittees/humanrights/ro/Report) On the basis of the report, parliamentarians may inquire further the state agencies on the notifications filled in by the parliamentary attorneys, and a decision of the Parliament is made (www.parlament.d/lawprocess/laws/169-XVI-13.07.1997/.) The activities of the Center are, however, criticized by the human rights organizations, as well as by the authorities. The president of Moldova was repeatedly called for more active measures by the Center to enhance the legal education of the population, while civil society claims that the Center is inert and usually takes no responsibility when major violations occur in connection to some social categories.

53f In practice, the ombudsman agency (or agencies) receives regular funding.

Score: 50

References: www.ombudsman.md - Decision of the Parliament of RM regarding the approval of the Regulation on the Center for Human Rights, its structure, staffing and financing (No.1484 of 05.02.1998)

Social Scientist's Comments: The Center is a legal entity, having its own budget, which is a part of the state consolidated budget. The state provides an office to the Center. Only a short sentence in the end of the Regulation stipulates (part IX) that the government will provide to the Centre all necessary tehcnical-material and transportation means, according to the Annex No.1 (total of 22 persons). In addition to the basic staffing payroll, the Center has three branches in Balti, Cahul and Gagauz Yeri cities (in total - 15 persons).

53g In practice, the ombudsman agency (or agencies) makes publicly available reports.

Score: 100

References: www.ombudsman.md/publicatii

Social Scientist's Comments: They have posted their reports, as well as relevant international documents and acts that aim to educate the public.

Global Integrity Report: Moldova

Peer Reviewer's Comments: Also, they held press-conferences and were in constant contact with media. But, because of vulnerability before political factors, they have to be cautious in criticizing the ruling party for malpractices; hence, poor public trust.

53h *In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.*

Score: 75

References: www.ombudsman.md/ses_avize/

Social Scientist's Comments: On the website of the Center, one may find a list of most recent investigations initiated on the basis of petitions. Some were on the cases delayed by the judges, some were from convicts detained in the penitentiary institution (dated July 27,2007), some were on parental rights. This information is provided in three languages: Romanian, Russian and English.

Peer Reviewer's Comments: The Agency addresses requests and petitions to different public institutions, while extremely rarely initiates investigations. The effectiveness of the petitions is very low.

Peer Reviewer's Comments: The Center does not investigate all the complaints possible. For example, it does not initiate investigations into the legal provisions that harm the rights of citizens. Nor does it file against the political decisions that breach human rights, for example the right of assembly. My personal perception is that the Center does not do enough in this regard and that it is a formal body.

53i *In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.*

Score: 25

References: Law on Parliamentary Attorneys (No.1349-XIII of 17.10.1997) Ion Manole, chairman of the Promo-Lex Association Stefan Uritu, chairman of the Helsinki Committee Association

Social Scientist's Comments: By law, the ombudsman can only notify, verify, present public information, investigate, request information, present annual reports to the Parliament, initiate administrative litigations, request constitutional control interventions from the Constitutional Court, but it cannot impose any penalties.

Peer Reviewer's Comments: Comments above are equal to 0 grade.

Peer Reviewer's Comments: As mentioned above, the Parliamentary Attorneys do not impose any penalties on offenders..

53j *In practice, the government acts on the findings of the ombudsman agency (or agencies).*

Score: 25

References: www.ombudsman.md www.credo.md

Social Scientist's Comments: The Center for Human Rights issues regular press releases through which it tries to inform the public about the accomplishments and results, about their initiated investigations or lobbying activities to the benefit of a specific case. It is not clear enough, however, if the initiated actions of the Center brought satisfactory results to the applicants, or if their claims have been met by the authorities. The largely shared opinion is that the annual reports presented by the Centre in the Parliament bring more key-information on these results. It goes without doubt, however, that reactions from the Parliament were not always positive, and this served as a basis for calling back one of the former attorneys, Lazar, before the mandate ended, while the reports were considered too 'black' and negative by the ruling party (in 2002).

Peer Reviewer's Comments: Government and ruling party's MPs are reluctant to ombudsman reports, which they perceive as a tool that goes hand in hand with opposition's interests.

53k *In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.*

Score: 25

References: www.ombudsman.md

Social Scientist's Comments: Established in 1988 as an independent public authority, the Center for Human Rights in Moldova is actively promoting its mission and role as a promoter of human rights and bona fides advocate. Attorneys contribute to the oversight of the general situation and intervene frequently at the request of dozens and hundreds of cases of people whose rights have been infringed by state authorities, and if an administrative decision may affect constitutional rights of persons, they employ a wide range of means to ensure that the individuals get compensations, or their liberties are protected. On Dec. 31, 2006, the Center employed 37 full-staff, including 15 local representatives.

54: Can citizens access the reports of the ombudsman?

54a *In law, citizens can access reports of the ombudsman(s).*

Score:	YES
References:	Law on Parliamentary Attorneys (No.1349-XIII of 17.10.1997) Regulation of the Functioning for the Center of Human Rights (No.1484 of 05.02.1998)
Social Scientist's Comments:	By law, citizens can have daily access to the work of the Human Rights Center and get appointments to the parliamentary attorneys, who are obliged by law to have at least three days in a month to meet with citizens (public audiences). Each of the notifications received from citizens (art.19) represents a reason to initiate a registered file on this subject. Decisions of the attorneys are notified to the petitioners according to the Law on Parliamentary Attorneys, and only written petitions are considered. Anonymous letters are not considered.

54b *In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.*

Score:	100
References:	www.ombudsman.md Stefan Uritu, Helsinki Committee - Moldova Sergiu Ostaff, Credo Centre
Social Scientist's Comments:	Everyone having access to the internet may easily access the ombudsman's reports, which are regularly published on the web page indicated above. Access is free. Parliamentary attorneys take appointments only three days per month, which means that in the rest of the days citizens may receive legal advice and consultation from the lawyers of the Center on Human Rights.

54c *In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.*

Score:	100
References:	www.ombudsman.md
Social Scientist's Comments:	Reports of the Center for Human Rights in Moldova can be accessed free of charge, and no additional fees are requested for legal advice or consultation provided by the staff at the center.
Peer Reviewer's Comments:	While visiting the Human Rights Center in April, I was able to carry away all the reports and brochures the ombudsman's office published during two years, including a few recently-published papers.

55: In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

55 *In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?*

Score: YES

References: Law on the Auditing Court (No.312-XIII of 08.12.1994)

56: Is the supreme audit institution effective?

56a In law, the supreme audit institution is protected from political interference.

Score: NO

References: Law on Auditing Court (No.312-XIII of 08.12.1994)

Social Scientist's Comments: Art.14 of the Law stipulates the principles of independence and immovability of the members of the Auditing Court, after they have been confirmed and appointed by the Parliament (at the proposal of the chairman of the Auditing Court). Members of the Court can be revoked with a simple majority of votes by the Parliament. The law does not stipulate any specific political-neutrality statute requested from the candidates voted for Court.

Peer Reviewer's Comments: The Auditing Court is subject to political pressure and perceived by expert community as another tool of political fights in hands of ruling party.

Peer Reviewer's Comments: Article 12 of the same law says that the Auditors Chamber / Court is made up of seven members, of whom 3 are appointed by the parliamentary majority and 4 by opposition factions.

56b In practice, the head of the audit agency is protected from removal without relevant justification.

Score: 50

References: Law on Auditing Court

Social Scientist's Comments: Art.18 of the law stipulates that the chairman or members of the Court can be revoked by the Parliament with a simple majority of votes, if they undertake insufficiently their competencies, they have violated the legislation or have committed serious breaches of the law. This provision is not detailed any further, which creates the impression that it may be used at anytime, in case the legislative majority or the parliamentary fractions decided to stop the Court's intervention in controlling some illegalities of the public sector, or private cases of corruption. Most of the Auditing Chamber's Members have been appointed after April 2005, when the ruling party and some of its allies voted for the President Voronin (who desperately needed their votes). From 2005, the political framework of cooperation has changed, and the older allies changed in antagonistic groups, therefore, the Members that have been appointed by the political groups in the Chamber feel insecure.

Peer Reviewer's Comments: Members of the Court have not been shown to be removed for political reasons. Why they may voting/acting to avoid political reprisals, I am more optimistic about the ability of court members to defend themselves if needed.

56c In practice, the audit agency has a professional, full-time staff.

Score: 75

References: Law on the Auditing Court of RM Decision of the Parliament of RM on the structure, staffing policy of the Auditing Court and salary conditions for the members and their staff (No.1-XV of 17.02.2005)

Social Scientist's Comments: According to the parliamentary decision, the Auditing Court has 150 employees, of which 36 are administrative staff. The decision regulates the salary increases and social benefits provided to the staff and the Court members. There are five executive directions (administrative, internal security, human resources, documentation, international cooperation) and five departments (on controlling the formation and utilization of the public finances, on budgetary means, on natural resources use and public property, on territorial public finances and on methodological and legal support). In addition to that, the Court has two branches - North and South.

Peer Reviewer's Comments: The head of the Court, Ala Popescu, has a good CV published on the Court website www.ccrm.md. She has completed training sessions in Germany, France, and the Netherlands. On the same website, there is a schedule of training of the Court staff this year (<http://www.ccrm.md/file/resurseumane/planul%20de%20instruire%202007.doc>), and a program of tests of the Court employees (<http://www.ccrm.md/file/resurseumane/PROGRAMUL%20DE%20EXAMINARE.doc>).

56d In practice, audit agency appointments support the independence of the agency.

Score: 75

References: Auditing Court has launched its Strategic Plan for Development (2006 - 2010): www.economie.moldova.org/stiri/rom/ ; Corruption in the high education of RM, on the basis of the report of the Auditing Court of RM: www.transparency.md;

Mafia va devanseaza No.92., July 13, 2006 www.garda.com.md;

www.deca-press.net; www.opinia.md

Social Scientist's Comments: It is widely believed that the Auditing Court has insistently promoted balanced reports on their controls exercised on public organizations and authorities.

56e In practice, the audit agency receives regular funding.

Score: 100

References: Law on the Auditing Court (No.312-XIII of 08.12.1994) Constitution of RM, adopted on 29.07.1994 (art.133)

Social Scientist's Comments: The Auditing Court receives annual funding from the state budget. As a sign of transparency, one may find out on the official website of the Auditing Court (www.ccrm.md/ro.despre/table.pdf) specific information on the expenditures incurred in 2006.

56f In practice, the audit agency makes regular public reports.

Score: 100

References: Report of A.Popescu, chairmen of the Auditing Court to the General Assembly, published on www.ccrm.md/ro/rapoarte.2006.php;
Ministrul culturii spala banii public No.525, Nov. 16, 2006 www.timpul.md;
Delapidari MAE de Moldova si raport Curtea de conturi www.riscom.net; Moldova vanduta pe bucatele concernului rus, Gazprom www.investigatii.md

Social Scientist's Comments: The auditing agency makes regular public reports. Reports are presented directly to the interested audience from mass media, as well as to the Parliament of RM. For instance, we have learned from the above mentioned Report that in 2006 the Auditing Court implemented 60 controls on 503 entities, and 59 of decisions were made. The last report presented to the Parliament was from July 15, 2006, underlining the results of the auditing controls between 2005 - 2006. On the basis of these conclusions, the Parliament adopted decision No.228 of July 14, 2006.

Peer Reviewer's Comments: Reports are published on the website www.ccrm.md

56g In practice, the government acts on the findings of the audit agency.

Score: 25

References: Coruptia din procuratura www.investigatii.md; Center for the Analysis and Prevention of Corruption www.capc.md/avize.php;
www.transparency.md

Social Scientist's Comments: The reports of the Auditing Court are not always considered seriously. To the surprise of the mass media, prosecution had displayed a very selective methodology to intervene when the Auditing Court has found important violations of the legislation.

56h In practice, the audit agency is able to initiate its own investigations.

Score: 75

References: Law on the Auditing Court Decision of the Parliament of RM - No.1-XV of 17.02.2005

Social Scientist's Comments: Art.5 of the Law stipulates that the Auditing Court of RM decides autonomously about its own program of activity, although decisions of the Parliament which request some controls performed by the Court are obligatory. Nevertheless, suplimentary controls can be initiated without the specific request of the Parliament, when parliamentary fractions demand that, no more than every three months. No other institution can dictate controls or investigations to be performed the Auditing Court.

Peer Reviewer's Comments: Although the Law stipulates the right to initiate the investigations, the Auditing Court is cautious in this respect, because of political concerns.

57: Can citizens access reports of the supreme audit institution?

57a *In law, citizens can access reports of the audit agency.*

Score: YES

References: Law on the Auditing Court (1994)

Social Scientist's Comments: By law (art.3), the Auditing Court shall present until July 15 of every year reports to the Parliament on the overall management of public financial resources related to the budgetary exercise, including violations identified and measures that were undertaken. This report is submitted and personally presented by the chairman of the Auditing Court to the Parliament, and in 15 days from the date of the presentation is it published in the Official Gazette (Monitorul Oficial). Automatically, the reports are published on the institutional website of the Court.

Peer Reviewer's Comments: However, citizens do not buy the Official Monitor as a rule, and have limited access to internet

57b *In practice, citizens can access audit reports within a reasonable time period.*

Score: 100

References: www.ccrm.md/ro/

Social Scientist's Comments: Citizens may easily access auditing reports according to the legal provisions on the website of the Auditing Court.

Peer Reviewer's Comments: According to the reviewers description, it seems the requirements for ease-of-access are met.

57c *In practice, citizens can access the audit reports at a reasonable cost.*

Score: 100

References: www.ccrm.md Alina Radu, Ziarul de Garda A.Tanase, Timpul

Social Scientist's Comments: Citizens may easily access the Auditing Court's reports according to the legal provisions, in no more than 15 days after the presentation of the reports in Parliament.

Peer Reviewer's Comments: There seem to be no costs for the information on the website, and Monitorul Oficial costs between 15 lei (1 euro) to 35 lei per issue.

58: In law, is there a national tax collection agency?

58 *In law, is there a national tax collection agency?*

Score: YES

References: Law on the Budgetary System (No.381-XII of 29.11.1990) Law on the Basis of the Fiscal System (No.1198-XII of 17.11.1992 Law on the State Fiscal Service (No.876-XII of 22.01.1992)

Social Scientist's Comments: According to the Fiscal Code, the administration of taxes is performed in Moldova by the State Fiscal Inspectorate, subordinated to the Ministry of Finance.

59: Is the tax collection agency effective?

59a *In practice, the tax collection agency has a professional, full-time staff.*

Score: 75

References: Law on the State Fiscal Service (NO.876-XII of 22.01.1992) More information on the operational side of tax administration can be found on www.fisc.md

Social Scientist's Comments: By law, the tax administration in Moldova is operated through the Principal Tax Inspectorate subordinated to the Ministry of Finance, the Tax Inspectorate of the Gagauz Yeri autonomy, and the Territorial Tax inspectorates of the Rayon administrations and municipalities of the country. Funding of the Tax Inspectorate's system is provided by the budgetary law.

Peer Reviewer's Comments: Yes, resource shortages and lack of training particularly affect ability to file taxes and turn to the authority for advice.

Peer Reviewer's Comments: Finance Minister Mihail Pop and Chief Tax Inspector Sergiu Puscuta are regarded as good professionals, both by government and by media.

59b *In practice, the tax agency receives regular funding.*

Score: 100

References: www.fisc.md;
Lilia Carasciuc - TI Report, December 2003, April 2004
www.transparency.md

Social Scientist's Comments: In practice, the agency is one of the most successful amongst other state agencies, first of all because of the fact that year after year the collection of taxes in Moldova is growing, second because it is highly influential, and third because it is perceived as a fairly professional, technical and well-managed agency. Some other sources tell that the Customs Office and the Tax Inspectorate are the most affected by corruption agencies (www.timpul.md - Dec. 19, 2003, No.107 - Vama si inspectoratul fiscal sunt cele mai afectate de coruptie institutii).

Peer Reviewer's Comments: Fiscal Inspectorate is considered to be another major tool for pressure and political fights; it is widely known that if a businessman refuses to support certain "social activities" of the Communists' Party, such as reconstructing monasteries and churches, they will be paid a visit by the Fiscal Inspectorate who will "find something" for sure.

60: In practice, are tax laws enforced uniformly and without discrimination?

60 *In practice, are tax laws enforced uniformly and without discrimination?*

Score: 25

References: www.garda.org.md www.investigatii.md www.transparency.md

Social Scientist's Comments: In practice, the work of the Tax Inspectorate is often subject to deep suspicions. The tax burden is considered to be too high for the private community of business (TI-Moldova, this is why the rate of tax evasion is so important!), while many others say that the Tax Inspectorate often implements political indications instead of approaching the tax payers in a fairly neutral and objective manner (Ziarul de Garda).

Peer Reviewer's Comments: Parliament often grants tax facilities to companies that are close to government representatives and especially to state-owned enterprises. And this year, President Voronin proposed - and Parliament adopted - a controversial and bitterly-criticized initiative on legalization of capital, fiscal amnesty, and reformation of the taxation system. Many experts viewed it as a package of measures to rescue the large money-losing enterprises, usually owned by the state. There were no objections from the tax service.

61: In law, is there a national customs and excise agency?

61 *In law, is there a national customs and excise agency?*

Score: YES

References: Customs Code (No.1320-XII of 09.03.1993)

Social Scientist's Comments: By law, a State Department for Customs is established to oversee, enforce and rule all the activities related to the custom affairs in Moldova. Art.7 of the Customs Code stipulates the functional obligations of the customs bodies, their statute, standards, limitations, as well as the legal regime of the border crossing for goods and services.

62: Is the customs and excise agency effective?

62a *In practice, the customs and excise agency has a professional, full-time staff.*

Score: 75

References: Customs Code (1993);
TI-Moldova Study on corruption in the custom bodies (November 2003)
www.transparency.md;

Web site of the Customs Department of Moldova www.customs.md

Social Scientist's Comments: In practice, the State Department for Customs is one of the largest state agencies in Moldova, with most probably the largest institutional budget - over 190 million of lei (US\$16.5 million) annually, which is by far the most rich state body. Nevertheless, it is to be emphasized that 70 percent of all the income of the state budget in Moldova are collected at the border - with customs offices having an important role there. The Customs Department has managed to create a professional, full-time and modern customs office, and since 2005 it has received targeted technical assistance from the EU to modernize its standards of conduct and procedures. It has, however, been often subject to harsh criticism from mass media and Transparency International for suspicions on corruption, with many cases being reported orally, as well as with full evidence that prove that corruption is still an important institutional disease for the customs officers.

Peer Reviewer's Comments: I would question the professionalism of custom servants, as they are seen not only by the public, but also by experts as the most corrupted in whole public service.

62b *In practice, the customs and excise agency receives regular funding.*

Score: 75

References: Customs Code (1993) Annual Budget of RM (2006)

Social Scientist's Comments: Customs offices are financed regularly and generously from the state budget.

63: In practice, are customs and excise laws enforced uniformly and without discrimination?

63 In practice, are customs and excise laws enforced uniformly and without discrimination?

Score:

25

References:

Study on Corruption and Fiscal Discipline in Moldova, 2003:

www.transparency.md;

Study on Corruption in the Customs Offices in Moldova, 2003:

www.transparency.md;

Corruption in the Customs Office Remains an Obstacle to Economic Growth: www.justice.md;

V.Prohnychy, Economic and Institutional Context of Corruption, RA/1, IDSI Viitorul: www.viitorul.org/public/433/ro.PE/1.pdf

Social Scientist's Comments:

Modernization of the customs offices takes time and is quite a controversial process. Although the Customs Department made many steps to enhance its professional standards, cases of corruption, political influence and smuggling remain frequent. In addition to that, Customs regulations were enforced on Transnistria only recently (since March 2006), with the establishment of the EU Border Monitoring Mission located on the border between Moldova and Ukraine (www.bumad.md).

Peer Reviewer's Comments:

In opinion polls, customs officials along with police officers are named among the most corrupted professionals in Moldova - according to Transparency International Moldova, Center of Investigative Journalism, Anti-Corruption Alliance of Moldova. The Parliament, on the other hand, sometimes passes laws that spare selected companies from customs duties or excises. One of the latest cases involves Mold Itera Energy SRL, which in April 2006 obtained an exemption from customs duties for the import of materials to build a power station in Burlaceni village (Law 77 from 6 April 2006).

64: In law, is there an agency or equivalent mechanism overseeing state-owned companies?

64 In law, is there an agency or equivalent mechanism overseeing state-owned companies?

Score: YES

References: Constitution of RM (1994) Law on the Government of RM

Social Scientist's Comments: The system of overseeing state-owned companies in Moldova is still extremely inefficient and non-transparent. As in the former USSR, the government of RM allows ministries to establish or to oversee the work of state-owned enterprises (like, state Railways - Moldova, Fintehinform, Posta Moldova - Moldova Post Office, Moldenergo, Moldtelecom). Many of them have been withdrawn from the mass privatization process for obvious reasons, while other have been re-nationalized (Farmaco) under political considerations. The government also controls important estate and land properties without providing a conclusive reporting over the destination and tax-generation mechanisms.

Peer Reviewer's Comments: Ministry of Finance is supposed to oversee them except for banks which falls into Central Bank remit. Its true there is no Agency for the Management of SOEs, but its not true they are unsupervised.

Peer Reviewer's Comments: Ministry of Economy and Trade has among its many functions one on management of public property.

Peer Reviewer's Comments: There is no distinct agency to oversee the state-owned enterprises. In the past, the Privatization Department was in charge with doing this job. Nowadays the ministries carry out this task. For example, the Agriculture Ministry is responsible for yet existing state-owned farms and food enterprises, and the Industry Ministry looks after the industrial companies (tobacco plant Tutun CTC).

65: Is the agency or equivalent mechanism overseeing state-owned companies effective?

65a *In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.*

Score: NO

References: Law on the State Registration of Enterprises and Organizations (No.1265-XIV of 05.10.2000) Law on Entrepreneurship and Enterprises (No.845-XII of 03.01.1992) Law on the State Enterprise - No.146-XIII of 16.06.1994

Social Scientist's Comments: According to the art.2 of the Law on Entrepreneurship, the "state is a special entrepreneur, and state enterprises are ruled on the basis of a special contract agreed with the executive manager of the company". Art.20 defines what state enterprise is: "it is endowed with goods and properties by the state or by the state agency that has founded it; saying that the peculiar management of the state enterprises is regulated by a special law". According to the Law on State Enterprises, the Administrative Board of the state enterprises shall include representatives of the Ministry of Economy and Ministry of Finance, that will form the majority of the shareholders, and representatives of the working collective. Net profits of the state enterprises are distributed according to the decision of the Administrative Board, at the recommendation of the administrator.

65b *In practice, the agency or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.*

Score: 25

References: www.viitorul.org - www.transparency.md -

Social Scientist's Comments: Law on State Enterprises (1994) does not stipulate the functioning of a special agency to manage state enterprises, as a result the formal delegation of the ministries in the Administrative Board proves to lack efficiency and effectiveness, leaving a large space for corruption and unintended consequences. As a result, state enterprises are less profitable, while the profitable ones usually enjoy a monopol statute on key-fields for the economy.

Peer Reviewer's Comments: If you interpret the MoF as being the agency in question, they do have professional staff....

Peer Reviewer's Comments: The administrators of state companies are persons close to government and, as a rule, they lack incentives for development of the trusted enterprises or know how to run them.

65c *In practice, the agency or equivalent mechanism overseeing state-owned companies receives regular funding.*

Score: 25

References: V.Ionita On State Enterprises Managed by Ministries www.viitorul.org; Business Moldovei, Aug. 30, 2006 www.transparency.md; Center for the Analysis and Prevention of Corruption - Report www.capc.md -

**Social Scientist's
Comments:**

The lack/absence of a specific agency on state enterprises had deterred the state bodies to fight against corruption. It therefore receives no funding, while important state officials have secured for themselves important 'grey money' for their nominal participation in the boards of enterprises, which have gone or are going bankrupt, because of lack of clear incentives towards competition and full reliance on governmental subsidies (i.e. cancelation of debts, cancelation of penalties). Some managers that have bankrupted or transfered assets without the approval of the administrative board are replaced and never prosecuted.

65d *In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies independently initiates investigations.*

Score: 0

References: www.capc.md;
Auditing Court of Moldova www.ccrm.md;
Center fighting Organized Crime and Corruption www.cccec.gov.md

**Social Scientist's
Comments:**

There have been no investigations. When cases of corruption are investigated, the initiative belongs to the Auditing Court or to the Center fighting Corruption and Organized Crime.

65e *In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.*

Score: 0

References: www.transparency.md Law on State Enterprises (No.146-XIII of 16.06.1994)

**Social Scientist's
Comments:**

Penalties are imposed usually by the Tax Inspectorate. Serious economic crimes are investigated by the General Prosecution Office and the Center fighting Organized Crime and Corruption in Moldova.

66: Can citizens access the financial records of state-owned companies?

66a *In law, citizens can access the financial records of state-owned companies.*

Score: NO
References: Law on State Enterprises (1994)
Social Scientist's Comments: Citizens cannot access the financial records of state-owned companies.

66b *In practice, the financial records of state-owned companies are regularly updated.*

Score: 0
References: Law on State Enterprises (1994)
Social Scientist's Comments: By legislation, executive managers of the state enterprises are obliged to present regular reports on the financial situation of the enterprise only to the founders (art.7), meaning state representatives, therefore no public records are provided to those who are not shareholders.
Peer Reviewer's Comments: The question doesnt ask about information to the public. SOEs do provide accounts, though only to their principals (as previously defined). These records may be of questionable value, but thats another issue.

66c *In practice, the financial records of state-owned companies are audited according to international accounting standards.*

Score: 25
References: Center fighting Economic Crimes and Corruption National Report regarding the progresses and obstacles registered in the process of the national strategy for fighting and preventing corruption (prepared within the MOLICO Project against Corruption, Money Laundering and Terrorism Financing in Moldova) www.scers.md
Social Scientist's Comments: Only the Auditing Court may provide reports on the actual situation of the state enterprises and budgetary organizations, and their regular reports tell the public about considerable and systematic violations of the financial standards at these enterprises. The government provides facilitated legal regime to these enterprises, and sometimes they us the public funds inappropriately to compensate their losses (www.timpul.md - July 12, 2006, No.449 - Interprinderi agricole de stat, creditate din contul pensionarilor).
Peer Reviewer's Comments: Modovan auditing practices are a far cry from what we understand to be international auditing practies...

66d *In practice, citizens can access the financial records of state-owned companies within a reasonable time period.*

Score: 0
References: Law on the Access to Information (No.982-XIV of 11.05.2000) Law on State Enterprises (1994)
Social Scientist's Comments: State enterprises are not listed among the entities primarily responsible for the implementation of the Law on Access to Information (2000). Accordingly, citizens may access only the information which is reported by mass media, when they can get it through private investigations.
Peer Reviewer's Comments: Even if information is requested based on Law of Access to Information, the answer will be that information requested represents "commercial interest".

66e *In practice, citizens can access the financial records of state-owned companies at a reasonable cost.*

Score: 0

References: The answer is no, and there is no such practice that state-owned enterprises would provide regular reports to the public. For instance, although all public entities and state enterprises have been insistently pressed to become more open, transparent and accountable to the public, they have not yet decided to post the financial records on the website of the railway company (Calea Ferata din Moldova). The same can be stated about the Air-Moldova and other large state companies.

67: Are business licenses available to all citizens?

67a In law, anyone may apply for a business license.

Score: YES

References: Decision of the Government of RM regarding the regulatory reform on the entrepreneurial activities (No.141 of 17.02.2004) Law on Licensing for some kinds of economic activities (No.332-XV of 26.03.1999)

Social Scientist's Comments: Art.6 of the law stipulates that the right to request a license can be attributed to any legal or physical person, including foreign ones, residing in RM, as subjects of entrepreneurship activities; other physical persons need a license according to the particular traits of their activities. Licenses are provided according to the law by specialized governmental bodies, such as regulatory agencies or ministries.

Peer Reviewer's Comments: In fact, they may (and need to) apply for several!

67b In law, a complaint mechanism exists if a business license request is denied.

Score: YES

References: Law on Licenses (1999)

Social Scientist's Comments: If an application for a license has been rejected by the specialized body (agencies or ministries), then this decision can be contested in a court of justice (art.13.-4).

67c In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

Score: 50

References: Decision of the Government on the reform of the regulatory policy (No.141 of 17.02.2004) Enterprise Policy Performance Assessment - Moldova www.oecd.org/dataoecd -

Social Scientist's Comments: The regulatory framework was seen and it is still perceived as a burden/obstacle towards economic growth. With the aim to simplify the regulatory framework and ease up institutional development of business, a 'guillotine law' has been adopted since 2002, and important steps took place, although they are insufficient. The regulatory reform presupposes optimization of the authorisations and licensing, implementation of the one-shop-stop system to the economic entities in order to simplify the financial reporting, etc.

Peer Reviewer's Comments: Given the ongoing regulatory reform, the license issue period has been reduced substantially. If a new draft law on licensing is adopted, that period would be cut down to 3 days. See http://www.licentiere.gov.md/data/pict/Proiect_LEGE.doc. Doing Business Report says Moldova has medium cost of business regulation. See www.doingbusiness.org.

67d In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

Score: 50

References: Law on the Revision and Optimization of the Regulatory Framework for Entrepreneurship (No.424-XV of 16.12.2004) Decision of the Government of RM regarding the registrar of authorisations, allowances and certificates, issued by the central administrative authorities and their subordinated organs on all physical and legal entities practising entrepreneurship (No.920 of 30.08.2005) www.bizpro.md

**Social Scientist's
Comments:**

Moldova is assessed as a low-cost country on business regulation (Doing Business 2007), registering some progresses in the last yeras according to the World Bank Assessments. The simplification and regulatory reform contributed a lot to this progress.

Peer Reviewer's Comments:

The author (and the World Bank study) relies on the results of the famous Guillotine Law which dramatically reduced the regulatory burden on businesses. HOWEVER, regulations have reappeared and there is much talk of a Gullotine II Law. I will concur with the reviewer of the entire period of review, however, if I were him, as of today, I would chose a 25 score.

68: Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

68a *In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.*

Score: YES

References: Constitution of RM (art.36) - The right to the protection of health is guaranteed. Minimum of health insurance is guaranteed by the state. Law on Protection of Health (No.411-XIII of 28.03.1995)

Social Scientist's Comments: Art.18 of the Law stipulates that all medical institutions and bodies of the national system of health are required to contribute to the public education of the population on health standards. Art.19 stipulates the right to be compensated for health prejudices because of the sanitary-epidemiologic conditions, hygienic conditions, etc., and every citizen can appeal to justice to receive compensations for the damages and prejudices that he/she suffered. The law stipulates further (art.20) what kind of medical services they can receive from the state, and what is to be considered a minimum guaranteed package of medical services to the citizens, guaranteed medical vacations in case of disease or trauma, right to get information about the health situation (art.25), as well as medical care for persons that have lost their full or partial working capabilities or are unemployed (art.37).

Peer Reviewer's Comments: Like all Moldovan laws, the actual law itself is available, but not published in a way in which subjects of the law can easily read and understand (ie colourful posters or other materials).

68b *In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.*

Score: YES

References: Law on Protection of Health (No.411-XIII of 28.03.1995)

Social Scientist's Comments: The provisions of the law are clear and transparent, the practical implementation of the legislation meets serious obstacles generated by widespread corruption, lack of effective investments in the hospitals, primary medical care, high costs of medicines, and inconclusive medical education of the population.

Peer Reviewer's Comments: Again, like all Moldovan laws, the actual law itself is available, but not published in a way in which subjects of the law can easily read and understand (ie colourful posters or other materials).

Peer Reviewer's Comments: Sources: Law on tax for pollution, Nr.1540-XIII from 25.02.98 Law on protection of the environment, nr.1515-XII from 16-6-1993 Law on environmental expertise and evaluation of impact on environment, nr.851-XIII from 29-5-1996 Policies for a Better Environment: Progress in Eastern Europe, Caucasus and Central Asia, on <http://www.oecd.org/> Environmental Management in Eastern Europe, Caucasus and Central Asia, on <http://www.oecd.org/> State of the environment in the Republic of Moldova, Report, 2004, on <http://cim.moldova.md/>. Making monitoring and assessment an effective tool in environmental policy, on www.unep.org According to the international and national reports, regulations are not enforced, there is a limited access to international experience on environmental management and the environmental issues are given low priority on the political agenda.

68c *In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.*

Score: YES

References: Law on Public Safety and Work Protection (No.625-XII of 02.07.1991) Constitution of RM (art.43) - Right to employment and safety in work. Employees have the right to be protected in terms of security and hygiene, gender non-discriminatory treatment, minimum level of the salary in economy, weekends, paid vacations, special working regime, as well as other specific situations. According to the constitution, the maximum duration of the working week is 40 hours. The employees have the right to negotiate their wages, while collective agreements on the wages paid by the business is guaranteed.

Social Scientist's Comments: The law defines its scope as to ensure a system of measures, norms and means, technical, curative and profilactic in order to guarantee safety conditions for the workers, health protection and maintenance of the working capabilities of the population. The law makes compulsory the implementation of the working standards, norms, regulations, protection instructions within all state enterprises, organizations and private entities on what concerns the organization of the working process, security and hygienic conditions, safety of the working places. Specific obligations are assigned to the administrations that run business activities, to ensure safety standards and hygienic and technical conditions.

Peer Reviewer's Comments: Once again, Like all Moldovan laws, the actual law itself it available, but not published in a way in which subjects of the law can easily read and understand (ie colourful posters or other materials). In the letter of the question, this material is available. In the spirit of the question, its not really accessible.

69: Does government effectively enforce basic health, environmental, and safety standards on businesses?

69a *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: 50

References: Labor Code (No.154-XV of 28.03.2003) Law on the Labour Inspectorate (No.140-XV of 10.05.2001) Decision of the Government of RM (No.1481 of 27.12.2001 regarding the reorganization of the State Inspectorate for Labor Protection belonging to the Ministry of Labor and Social Protection); Inspectia muncii nu este un monstru, ci un bun prieten No.1172 of 21.10.2006 www.moldova-suverana.md;
Cele mai multe accidente au loc in agricultura No. 144, Sept. 10, 2004, www.timpul.md;
Regulament privind modul de cercetare a accidentelor de munca - Monitorul Oficial No.74 anul 2002 www.cnas.md

Social Scientist's Comments: A Labor Inspection was created in 2001 according to a specific law. The Inspectorate is the main instrument of the central public administration entitled to exercise control functions on behalf of the state over the implementation of the legislative and normative acts in the field of enterprises, institutions and organizations, irrespective of the type of ownership or legal form of organization, local and subnational authorities. Usually, the Labor Inspectorate oversee the issues connected to the existence of the individual or collective contracts, labor passports, work duration and resting time, payments and payroll, labor discipline, work provided to the juniors and women, other aspects related to the labor process. It may issue labor permits and impose penalties on those enterprises that have been conducting illegal activities.

Peer Reviewer's Comments: I must admit that I am relying mostly on complaints and stories I see in the press. However, even a drive down Stefen che Mare shows that health and safety standards are followed differently by diferent companies. Wide-spread reports of corruption in the enforcement of licencing leads me to be a bit more pessimistic than the reviewer.

69b *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: 25

References: Regular business inspections are carried out by the Labor Inspectorate. Often these insepctions are suspected of aiming to corrupt or get corrupted.

Social Scientist's Comments: Only in the first quarter of 2007, the Labor Inspectorate has conducted 1,446 controls on enterprises, institutions, organizations employing over 58,187 staff. They have registered 14,227 of violations of the existing legal acts. See www.social.moldova.org/stiri/rom.40789/

Peer Reviewer's Comments: State Environmental Inspectorate is a department of the Ministry of Environment and Natural Resources. It carries out inspections, which are considered efficient and arbitrary.

69c *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: Enterprise Public Policy Assessment - Moldova www.oecd.org

Social Scientist's Comments: Only in the first quarter of 2007, the Labor Inspectorate has registered 28 working accidents, including 21 grave and seven deaths. Over 1,446 of controls have been implemented by the Labor Inspectorate, in which they found 14,227 of violations - see www.interlic.md/news/234-romhtml. In 2007, the Labor Inspectorate has been reduced dramatically by the Government. It received six times less than the budget that they had in 2006, and staffing will be reduced from 35 to 10 inspectors - see www.economie.moldova.org

Peer Reviewer's Comments: The latest accidents involve the collapse of a residential building in Soroca town on 29 October 2007, with at least six persons being killed, and in August half a wall from a storey building fell on a private home, killing one baby. Chisinau Mayor Dorin Chirtoaca has ordered investigations into the construction industry in the capital, where illegal building work is flourishing, with safety rules often ignored.

70: Is there legislation criminalizing corruption?

70a *In law, attempted corruption is illegal.*

Score:	YES
References:	Law on Corruption and Protectionism (No.900 of 27.06.1996)
Social Scientist's Comments:	By law, attempted corruption is illegal. The law defines its mission to defend loyal citizens against perpetrated abuses and human rights violations by fighting, preventing and deterring corruption.
Peer Reviewer's Comments:	let's not forget that corruption is not a crime, and attempt of a crime is also punishable under the Criminal Code.

70b *In law, extortion is illegal.*

Score:	YES
References:	Penal Code (November 24, 1961)
Social Scientist's Comments:	Art.188/1 regulates the penalties for cases of trafficking of influence. It is therefore defining extortion as illegal, providing clear indications on what shall be considered extortion and what proves that a crime has been committed.

70c *In law, offering a bribe (i.e. active corruption) is illegal.*

Score:	YES
References:	Law on Corruption and Protectionism (No.900)
Social Scientist's Comments:	Bribe is considered illegal.

70d *In law, receiving a bribe (i.e. passive corruption) is illegal.*

Score:	YES
References:	Law on Corruption and Protectionism (No.900)
Social Scientist's Comments:	Giving and receiving a bribe is illegal.
Peer Reviewer's Comments:	again, the Council of Europe Criminal Convention really addresses this distinction (of which Moldova is a signatory)

70e *In law, bribing a foreign official is illegal.*

Score:	YES
References:	Law on Corruption and Protectionism (No.900)
Social Scientist's Comments:	By law, corruption is defined as an illegal activity among two parties (including public officials), if this is proved.
Peer Reviewer's Comments:	Moldova is a signatory to the UN Convention (which makes criminalises bribery of foreign officials). I should also add that the OECD Convention has universal applicability (namely, if those foreigners are nationals of an OECD member country, then those foreigners have committed an offence.

70f *In law, using public resources for private gain is illegal.*

Score:	YES
References:	Law on Corruption and Protectionism (No.900), art. 8

Social Scientist's Comments: Unless otherwise stipulated by legislation, governmental officials are restricted (art.7) to use for private gain telecommunication and transportation means, electronic equipment, money and goods owned by the state and provided to them only for official use.

Peer Reviewer's Comments: Moldovan law also prohibits embezzlement and larceny (as one would expect)

70g In law, using confidential state information for private gain is illegal.

Score: YES

References: Law on Corruption and Protectionism (no.900) Law on Civil Service (No.443-XIII of 04.05.1995) Law on the Government (No.64-XII of 31.05.1990) Law on the Access to Information (No.982-XIV of 11.05.2000)

Social Scientist's Comments: Art.7 prohibits civil servants and top-officials to use official information in accordance with the provisions and security proceedings for public gain, if this information is not for divulgation. Art.7 of the Law on Access to Information provides a list of data with restricted circulation, which includes state secret information (regulated by organic law and protected accordingly), and business confidential information, (regulated by the legislation on business confidential information), etc.

70h In law, money laundering is illegal.

Score: YES

References: Law on Prevention and Combating Money Laundering and Terrorism Financing (No.633-XV of November 15, 2001)

Social Scientist's Comments: The Center for Combating Economic Crimes and Corruption signed the IBA Anti- Money Laundering Convention. By the law adopted in 2001, all real estate agencies, exchange offices, investment funds, insurance companies, casinos and other listed businesses are requested to provide information about suspicious deals larger than 500.000 lei (US\$43,448) to the Center for Combating Economic Crimes and Corruption.

Peer Reviewer's Comments: I remember seeing on the CCECC website that a new law was recently passed about money laundering. Again, illicit proceeds are (in theory) illegal under the UN Convention Against Corruption (of which Moldova is a signatory)

70i In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Score: YES

References: Law on Corruption and Protectionism (No.900) Law on the Organs of State Security (No.619-XIII of 31.10.1995) Penal Code

Social Scientist's Comments: Conspiracy to commit a crime is illegal and shall be prosecuted by penal bodies after investigation.

Peer Reviewer's Comments: And of course illegal in the criminal code.

71: In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

71 *In law, is there an agency (or group of agencies) with a legal mandate to address corruption?*

Score: YES

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002)

Social Scientist's Comments: By law, the Center (CCECC) is established as a specialized body in the field of combating economic crimes and corruption and defending the legitimate interests of citizens and public order.

Peer Reviewer's Comments: There is also an Office of Anti-Corruption Prosecutor.

72: Is the anti-corruption agency effective?

72a *In law, the anti-corruption agency (or agencies) is protected from political interference.*

Score: YES

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002) www.investigatii.md www.transparency.md www.social.moldova.org/stiri/rom/57988/

Social Scientist's Comments: The center shall operate on the basis of principles of legality, rule of law, opportunity, combination of publicity and secret forms of activities, combination of unipersonal and collegial forms of leadership, cooperation with public associations and civil society organizations. The law does not explicitly stipulate non-political foundation of its work, therefore often the CCECC was suspected for having a political bias.

72b *In practice, the anti-corruption agency (or agencies) is protected from political interference.*

Score: 25

References: www.parties.e-democracy.md/docs.ppcd www.garda.com.md

Social Scientist's Comments: Political influence over the Center for Combating Economic Crimes and Corruption (CCECC), established as a specialized body against organized crime and corruption by law No.1104-xv of 06.06.2002, is huge and unbalanced.

Peer Reviewer's Comments: In my opinion, political parties don't interfere with the work of the CCECC as much as fail to encourage its activity. Moreover, there is a jurisdictional dispute between agencies (procurator and the internal affairs departments of the various law enforcement bodies themselves) which make investigating and prosecuting cases "politically" (bureaucratic politics) difficult.

Peer Reviewer's Comments: CCECC was often accused of acting as political police and it's reported as a key institution for reform. Centre was involved in a number of controversial arrests of political figures and businessmen. Some of them (Vladimir Pasat, Victor Turcan) sued Moldova in the European Court of Human Rights and were declared not guilty. Accordingly, Moldovan government will have to pay considerable sums for moral and material damage. All these cases were orchestrated and conducted by the Centre.

72c *In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.*

Score: 25

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002)

Social Scientist's Comments: By law, the Center is managed by a director appointed by the government (art.8) for a four-year mandate. Employees are specifically protected (in social terms, as well as where their labor conditions are more difficult). The law does not stipulate under which conditions the director of the Center is dismissed, with or without reasonable argumentation. The general prosecution provides oversight on the activities performed by the Centre.

72d *In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.*

Score: 50

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002)

Social Scientist's Comments: The law stipulates the requirements and professional indicators for individuals applying to work for the Center, although the mass media have reported a high fluctuation of the employees within the CCECC.

Peer Reviewer's Comments: The CCECC staff are drawn from professional law enforcement officers from other agencies. They need training, thats for sure. But it is a mistake to say they are political....

Peer Reviewer's Comments: In practice, appointments are being done in a non-transparent way, and questions over professionalism of staff are persistent.

Peer Reviewer's Comments: From the words of Artur Cozma, who works in this agency since it used to be the Anti-Corruption Department, and judging on the media reports about CCCEC, the institution largely serves the interests of the ruling party. CCCEC officers have been reported to be participants in all major arrests of opponents to the regime and in crackdown on independent media.

72e *In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.*

Score: 75

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002)

Social Scientist's Comments: Art.12 stipulates specific conditions for selection and functioning in CCECC. The Center is very well financed by the state, and it provides regular reports on the detected violations, penalties imposed and the networks of criminal activists that have been abolished.

Peer Reviewer's Comments: While I agree with the score, I would like to mention that many officers are used to fulfill political orders.

72f *In practice, the anti-corruption agency (or agencies) receives regular funding.*

Score: 100

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002)

Social Scientist's Comments: The Center is regularly funded, and it is believed to have high political protectors in order to ensure that its institutional management is correct. No transparent show of the financial records is provided to the public, and overall, the activities of the Center are irregularly presented to the public.

Peer Reviewer's Comments: Funding is low, but predictable.

72g *In practice, the anti-corruption agency (or agencies) makes regular public reports.*

Score: 50

References: www.ccecc.gov.md

Social Scientist's Comments: Currently, the website of the Center is not available. A speaker on behalf of the Center reports regularly to the electronic mass media about the cases depicted or investigated by the Center, although important cases were lost because of clear indications from political factors (Pasa Case, Colin Case), i.e. top-officials of the Center that have been arrested and detained on fake accusations.

Peer Reviewer's Comments: I used their website yesterday. Ive seen their glossy reports. They do a good of telling what they are doing. This being said, I dont know how their information gets perceived by parliamentarians...and its true they dont give details about specific cases.

Peer Reviewer's Comments: The website is available, though it experiences temporary technical problems. While there is some information about the activities of the Center, much of it is irrelevant from the point of view of high corruption.

72h *In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.*

Score: 75

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002)

Social Scientist's Comments: The Center is an extremely powerful structure with hundreds and thousands of employees. It receives huge budgetary subsidies, and it is usually seen as an important instrument of curbing corruption, associated to the modernization of the central and local administration project in Moldova. Nevertheless, it has other important missions, i.e. political ones, which provide unequal chances to the business, on a selective and often, dangerous way. Therefore the small and medium businesses have quite a negative image of the CCECC (see - Unofficial Taxation in Moldova - www.viitorul.org), or EPPA - Moldova (OECD).

Peer Reviewer's Comments: They can initiate "protocols" but then need to pass them on to the prosecutor. They rely most on internal security units in the various law enforcement agencies for preliminary intelligence leading to an investigation. I agree with the score as they don't have all the powers and particularly skills required.

72i *In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.*

Score: 50

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002)

Social Scientist's Comments: By law and practice, the Center can initiate investigations if notified.

Peer Reviewer's Comments: However, the Centre is seen as abusing its powers and undertaking roles that are not stipulated in the legislation.

73: Can citizens access the anti-corruption agency?

73a *In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.*

Score: 75

References: www.transparency.md/docs.2005/Strategie_ro.pdf

Social Scientist's Comments: National Strategies on preventing and curbing corruption and an Action Plan for the implementation of the National Strategy - No.421-XV of December 16, 2004. By art.6 of the Law on CCECC (No.1104-xv OF 06.06.2002).

Peer Reviewer's Comments: The CCECC has a great service centre on the ground floor. You walk in, they make a record of your complaint, and they (in theory) follow up on it. The Centre publishes a report in English showing the average waiting time on complaints.

Peer Reviewer's Comments: According to the reports of the center, it acts quickly on complaints. However there is no public access to the files of the agency and

73b *In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.*

Score: 75

References: Law on the Center for Combating Economic Crimes and Corruption (CCECC) (No.1104-XV of 06.06.2002)

Social Scientist's Comments: Citizens may address the CCECC easily, without having fears of being recriminated for their actions. Usually they make appointments in advance.

Peer Reviewer's Comments: Its true that the majority of citizens are afraid of retaliation by the state. Its also true that the more complicated protections -- such as witness protection -- are not present. But I am a bit more optimistic than the reviewer on this point.

Peer Reviewer's Comments: e-mails can be directed to the Agency and a hotline is established for complaints.

Peer Reviewer's Comments: I agree with the comment, not with the score.

74: Is there an appeals mechanism for challenging criminal judgments?

74a *In law, there is a general right of appeal.*

Score: YES

References: Law on the Judicial Organization (No.514-XIII of 06.07.1995)

Social Scientist's Comments: The justice is carried out in Moldova through a three-layered judiciary system: ordinary courts, appeal court and Supreme Court of Justice. Legislation and constitution guarantee to every citizen conditions for a free, fair and independent judiciary review, whereas a right of appeal is provided by law. For some categories of cases, there are specialized courts (military, economic) - art.15.

74b *In practice, appeals are resolved within a reasonable time period.*

Score: 25

References: Appeal Court of the RM www.rol.md/apel/ ;
Cazul Pasat ca lecti si ca examen, Timpul, Dec. 21, 2006, No.550
www.timpul.md;

Moldova: Curtea Supream de justitie a recunoscut dispozitia primariei
Chisinau drept ilegala - No.122.06 of Nov.16, 2006 www.amnesty.md

Peer Reviewer's Comments: Many appeals are not resolved timely.

74c *In practice, citizens can use the appeals mechanism at a reasonable cost.*

Score: 25

References: Law on the Judiciary Organization (No.1260-XV of 19.07.2002)

Social Scientist's Comments: In practice, citizens who have to appeal in the Appeals Court bear considerable costs.

75: In practice, do judgments in the criminal system follow written law?

75 *In practice, do judgments in the criminal system follow written law?*

Score: 50

References: www.cspl.md;
Expertii sustin ca cele mai des incalcate in RM drepturi sunt cele sociale si dreptul la un proces echitabil 11.12.2006 www.transparency.md

Social Scientist's Comments: It is quite difficult to judge on that because judiciary decisions appear without corresponding justifications and arguments. Often the explanation is related to the overcrowded work of the courts, but also to the poor work of the judiciary. When a decision is made, one has very few reasons to see whether the reasons behind a decision followed the written law (Penal Code, Civil Code, Administrative Code).

Peer Reviewer's Comments: Judges usually follow the book of law, but not the spirit of it. They do not refer to European practices or precedents; hence the increasing number of convictions by the European Court of Human Rights on the same reasons: lack of access to a free and fair trial, torture and lack of enforcement of court decisions.

Peer Reviewer's Comments: This rating is based on the poor observance of the legal procedures in criminal cases and the parity / similar toughness between a sentence for murder and a sentence for theft.

76: In practice, are judicial decisions enforced by the state?

76 In practice, are judicial decisions enforced by the state?

Score: 25

References: In 2005-2006, RM paid more than 4,8 mln lei for moral and material
www.transparency.md;
Compensations on the basis of the European Court on Human Rights) -
Dec. 6, 2006;
Helsinki Report on Human Rights in Moldova www.peacebuilding.md;
Petitie, March 23, 2006, on behalf of the BC Victoriabank SA
www.garda.com.md -

Social Scientist's Comments: Judiciary decisions are implemented selectively. The confidence in law and judiciary is quite low, and political authorities still have a large influence on some partes of the judiciary. International conventions are not properly known and implemented.

Peer Reviewer's Comments: I am not so pessimistic, only because the majority of the cases are generally resolved in some way (albeit maybe not to EU level standards). The big cases always attract our attention.

Peer Reviewer's Comments: Many of the cases Moldova lost in the European Court of Human Rights concern namely this issue. www.echr.coe.int

77: Is the judiciary able to act independently?

77a *In law, the independence of the judiciary is guaranteed.*

Score: YES

References: Constitution of the RM (1994) - Art.114, Justice is made on behalf of the law only by the judiciary bodies. Constitution guarantees (art.20) free access to justice to every person, who shall expect to receive full and effective satisfaction of their rights from the competent judiciary authorities against acts that have violated their rights, freedoms and legitimate interests. No other law cannot bar the free access to justice.

77b *In practice, national-level judges are protected from political interference.*

Score: 25

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

Jurnal de Chisinau Coruptie si Injustitie: Plenul Curtii Supreme de Justitie face de ras RM in fata CEDO, July 27, 2007 [www.jurnal.md](#);

In Moldova journalists are jailed [\[LINK\]](#);

V.Ionita Cate femei de serviciu trebuie sa aiba curtile de justitie Ziarul de Garda, No.86 [\[LINK\]](#) - ,

Social Scientist's Comments:

Judges are appointed by the president, at the suggestion of the Upper Council of Magistrates, and when the president has never broken his links with the ruling party (whose prime secretary he is today), all appointments are made on strictly non-professional basis. Of course, the Council may insist to nominate again a candidate that has been officially rejected by the president, but often it has been accepted as a censorship, while the list of judges have been coordinated long in advance.

77c *In law, there is a transparent and objective system for distributing cases to national-level judges.*

Score: NO

References: Law on the Judiciary Organization (No.514-XIII of 06.07.1995)

Social Scientist's Comments: Art.27 stipulates the list of responsibilities of the judges, some of them performing also managerial competences (ordering credits or overseeing budgets from the state), but also distributing cases. Distribution of cases to national-level judges is not at all transparent and is usually suspected to be politically-motivated and prone to corruption.

77d *In law, national-level judges are protected from removal without relevant justification.*

Score: YES

References: Law on Judiciary Organization (no.514 - XIII of 06.07.1995)

Social Scientist's Comments: The law prohibits any kind of censorship or control over judiciary decisions or judges, except in cases where the Ministry of Justice oversees the material and resources necessary to ensure the well-functioning of the justice in courts. Judges are appointed or dismissed by the president of RM, at the proposal of the Upper Council of Magistrates (art.116 of the Constitution). The judges' promotion and transfers can be done only with their consent. Only disciplinary penalties can be imposed on judges by a disciplinary body of the Upper Council of Magistrates. Nevertheless, between 2001 and 2002, over 54 of judges were dismissed in Moldova or 'not-appointed' by the president, on reasons that seemed to be rather political and illegal.

78: Are judges safe when adjudicating corruption cases?

78a *In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.*

Score: YES

References: No cases of physical harrasment against judges were reported by mass media in 2006.

78b *In practice, in the last year, no judges have been killed because of adjudicating corruption cases.*

Score: YES

References: No cases were reported in 2006 or 2007.

79: Do citizens have equal access to the justice system?

79a In practice, judicial decisions are not affected by racial or ethnic bias.

Score: 75

References: Racial or ethnic hatred is not at all a factor that would affect judiciary decisions of the functioning of a fair and independent justice. In Moldova, there were no cases when judiciary would be seen as being ethnically or racially biased.

Social Scientist's Comments: Being a relatively homogeneous state, there are no visible racial contradictions and factions that would influence the judiciary. I do not agree. There is nothing that would be called a xenophobic or racial campaign, like in other countries (for instance in Russia, or in other places). Russians are fully integrated politically, economically and socially in the life of Moldova, while of course, the inability to communicate in the state language of Moldova make some of the political groups to state themselves as champions of these non-integrated groups, receiving election dividends. There are policies of language integration for national minorities, and all citizens are equal by law and in practice in Moldova.

Peer Reviewer's Comments: Gypsies continuously complain of having their rights violated and Russians (non Romanian speakers) have increasing difficulty living in the new state. I'm not saying Moldova is in a state of anarchy, but I can't support an assessment that the country is a happy, equal place.

79b In practice, women have full access to the judicial system.

Score: 75

References: [\[LINK\]](#) www.amnesty.md

Social Scientist's Comments: In May, Moldova signed a Council of Europe declaration agreed by member states at a summit meeting in Warsaw that included a commitment to fight domestic and other forms of violence against women and children. Also in May, Moldova signed the Council of Europe Convention on Action against Trafficking in Human Beings. On Oct. 20, the Moldovan Parliament adopted a law on trafficking. Although Moldova reportedly increased the number of convictions for trafficking in human beings, protection for the victims of trafficking remained inadequate and the government did not implement a 1998 witness protection law. The main destinations were Cyprus, Russia, Turkey and the United Arab Emirates, according to a local human rights organization, La Strada. In most cases, women were trafficked for sexual exploitation, but also sometimes for forced labor. Trafficked women were mainly seeking work abroad because of unemployment and domestic violence. Increasing numbers of children and men were trafficked.

Peer Reviewer's Comments: I think an excessive focus on trafficked woman overlooks the overall gender profile of justice service users. Looking at the sheer weight of cases brought to courts, I wouldn't be so pessimistic about woman's access and use of the judicial system.

Peer Reviewer's Comments: I would not draw a divide line between men and woman on having access to the judicial system. While I agree in principle that men are more likely to get access to the judiciary system I attribute this to the fact that men are more sustainable in economic terms, while women in Moldova are more vulnerable.

79c In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Score: YES

References: Constitution, art.20 - free access to justice Law on the Organization of Justice (No.514 of 06.07.1995) Law on Advocates (No.1260-XV of 19.07.2002)

Social Scientist's Comments: Art.8 stipulates free access to justice, irrespective of the gender, sex, language, ethnicity, etc. Legal assistance is provided for defendants in criminal cases when they cannot afford it. The state guarantees professional legal assistance to all persons according to the law (art.5 of the Law on Advocates - 2002). Considering the material statute of the applicants, advocates can provide legal assistance free of charge.

79d In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

Score: 50

References: Law on Advocates (no.1260-XV of 19.07.2002)

Social Scientist's Comments: The right to decent legal defense is protected and guaranteed by the constitution and by the law, although this is difficult to enforce when it comes to the most impoverished strata of the population (who usually try to avoid any judiciary court at all). State budget stipulates that the legal consultancy provided to poor people is compensated to the advocates, but it usually remains unfulfilled because of the money shortage.

79e In practice, citizens earning the median yearly income can afford to bring a legal suit.

Score: 25

References: www.ccbt.org/doc/moldova_seminar/speech_vizdoaga.pdf;
Center for Analysis and Prevention of Corruption
www.capc.md/procese.php

Social Scientist's Comments: By law, legal assistance is a right of the parts in justice. Art.17 of the Procedural Penal Code shows that along the process duration, both parts shall receive assistance, while it obliges the criminal investigation body and the judiciary court to provide to the suspect or defendant a right to get qualified legal assistance. Defendants cannot be judged if they have not requested or have not been effectively assisted by an advocate.

Peer Reviewer's Comments: I think someone earning \$200 can afford the various facilitation payments which are required to bring a legal suit (perhaps not to win it, but to bring it certainly)

Peer Reviewer's Comments: The low incomes in Moldova prevent most of the middle class citizens from filing suits. In many cases, people that bring a legal suit have to borrow money or take credits in order to pay the expenses, including illegal fees.

79f In practice, a typical small retail business can afford to bring a legal suit.

Score: 25

References: www.capc.md/procese
Lawyers for Human Rights www.ihr.md

Social Scientist's Comments: There are several complaints that justice is expensive, although it is quite underfunded. Access to justice is possible only when effective means of defense are provided to the defendants. Considering the economic situation of the population (over 60 percent under the official survival level), and that important procedural costs are requested if the cases are complex, then one may conclude that only a very limited segment of the population may effectively appeal to justice. Extra judiciary/litigation remedies are only emerging as a means to reduce the costs of judiciary procedures.

Since 2003, one of the branches of the judiciary (tribunale) has been liquidated, on the assumption that this will speed up the duration of the legal examinations and rule of decisions, but it did not in fact solve the overburdened system of judiciary in Moldova.

Peer Reviewer's Comments: The official costs are affordable, but an eventual injustice done by the system makes the attempt for justice useless. However, there are hundreds of suits filed by small businesses at present in Moldova.

79g *In practice, all citizens have access to a court of law, regardless of geographic location.*

Score: 25

References: Global Corruption Report - 2007 shows an increase in the corruption level in Moldova, which follows the world trend www.transparency.md;
Corruption and access to justice as seen by society and experts - 2002 www.transparency.md;

Report on the local autonomy in Moldova, December 2002 www.viitorul.org

Social Scientist's Comments: Civil society activists and politicians of Moldova generally agree that in spite of the progress of the judiciary reform, a considerable part of the population of the country still remains unprotected and has not access to effective legal remedies against abuses.

Peer Reviewer's Comments: The limited access is not determined by the geographic location - it is mostly the traditional division urban / rural based on the levels of wellbeing and education.

Peer Reviewer's Comments: This depends basically on economic conditions. While residents in the centre and in the north may be described as medium earning people, the population in the south is poorer. Therefore, the access on justice is weaker there. The same can be said about residents in the Transnistrian region, where Moldovan jurisdiction is not available at all. Then, townsmen literally live near the courtrooms, while countryside people have to get to a nearest administrative center.

80: Is the law enforcement agency (i.e. the police) effective?

80a *In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.*

Score: 25

References: Law on Prosecution (NO.902-XII of 29.01.1992)

Social Scientist's Comments: By law, prosecutors shall have a legal degree, be citizens of Moldova, shall display strong professional commitment, moral and professional qualities confirmed through medical certificates, etc. (art.41). In practice, the selection of the prosecutors is a subject of public debates. General Prosecution is entitled with the oversight and coordination of the personnel policy, while regularly prosecutors are professionally attested/verified by specialized groups of qualifications.

Peer Reviewer's Comments: I think there is nepotism and other problems (remember they earn 200 USD per month for a hard and dangerous job in some albeit rare cases). Politicisation may affect higher levels, but that's another issue.

Peer Reviewer's Comments: Appointments are based on political considerations and conflicts of interests quite often accompany these. No public professional selection is being undertaken, and decisions to remove prosecutors are subject to Presidential discretion.

Peer Reviewer's Comments: Even the minister of interior is alleged to be lacking the appropriate education. He has refused for years to show his diploma to the press. But Mr. Gheorghe Papuc instead has supported incumbent President Vladimir Voronin and is known for his crackdown on journalists.

80b *In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.*

Score: 25

References: Law on Prosecution (1992) Decision of the Parliament of RM regarding the creation of the Prosecution bodies, their residence and field activities, structure and staffing policy (NO.609-XIV of 01.10.1999)

Social Scientist's Comments: Most of the public organizations and authorities are underfunded. The website of the General Prosecution of RM includes no information about the budget of the institution, no other analytical reports of the past achievements or future objectives. It is suspected that the prosecution is still an old-fashioned instrument of reprisals in Moldova, lagging outside the general objective of the judiciary reform in Moldova.

Peer Reviewer's Comments: While I really do not know the size of the salaries of senior police officials, whom I can see parking expensive cars around the Interior Ministry, I can tell the size of the monthly earning of junior police officers - they are rather small. The interior minister has repeatedly complained that his men are underfunded and lack the basic equipment to fight the crime.

80c *In practice, the law enforcement agency is protected from political interference.*

Score: 0

References: Adept Association - 'Cei trei piloni avariati', Sept. 15, 2006 www.e-democracy.md/comments/poitica;
Procuratura il ancheteaza pe membrii PPR No.250, July 9,2005 www.timpul.md;
Tradare de stat sau paranoia politica? Ziarul de Garda, No.71 of Feb. 9, 2006 www.garda.com.md

Social Scientist's Comments: Prosecution is believed to follow political indications in campaigns as well as in other situations. An Independent Report of the 13 representatives of the civil society of RM on March 30, 2007 illustrated with evidence that the judiciary reform is still impeded by the preservation of many remnants of the older Soviet regime, first of all of an unreformed prosecution office. See www.europa.md/upload/File/boxedreapta/raport.independent.doc

Peer Reviewer's Comments: Politicisation probably does affect the upper levels of all law enforcement agencies

Peer Reviewer's Comments: The law enforcements are heavily used as instruments in political fights. The political influence has been pointed in international reports as one of the key domains where Government should take immediate action.

Peer Reviewer's Comments: The current prosecutor-general, Mr. Gurbulea, and the current interior minister, Mr. Papuc, are just instruments in the hands of the ruling party and President Voronin. One example. Both have made little progress during two weeks in finding the driver of a presidential limousine who caused a traffic accident and hurt two people in the capital. Eyewitnesses said the driver was visibly drunk and the plate number is unmistakably RM-0001. Both avoid speaking on this subject with the press.

81: Can law enforcement officials be held accountable for their actions?

81a *In law, there is an independent mechanism for citizens to complain about police action.*

Score:	NO
References:	Law on Police (No.416-XII of 18.12.1990) Constitution of RM (1994) - rights and liberties
Social Scientist's Comments:	By art.4, the legislation stipulates specifically which shall be the limits of the police actions. The law does not establish a specific independent mechanism for citizens to complain about police actions, and therefore it is not surprising at all that huge number of complaints about maltration, torture and violations of the inviolability of homes have been reported in the last years, with dozens of cases lost in the European Court of Human Rights in Strasbourg against Moldova. Generally, the police is not trusted by the population, for being 'too corrupt' and 'biased', and, accordingly, the cooperation with police is not seen as agreeable by many citizens. Real reforms of the police structures have been stagnated for a while, with no signs of real commitments at the leadership level.
Peer Reviewer's Comments:	People can appeal to the CCECC. They can appeal to the courts (though their effectiveness is another matter). They can appeal to the head of police (as way the tradition in the past and again this is of questionable effectiveness, but still present).

81b *In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.*

Score:	25
References:	Study on custom officers and police show that they are the most corrupt according to the public surveys. 60 percent of the respondents show an attitude of toleration to corruption www.transparency.md Gh.Papuc, Minister of Internal Affairs says that in the last decade Moldova was contaminated massively by corruption, Dec. 18, 2006 www.allmoldova.com Asa ceva nu era nici in anul '37', TIMPUL, January 2006, No.340 www.timpul.md
Peer Reviewer's Comments:	Its true that most people who complain have a difficult time.
Peer Reviewer's Comments:	No INDEPENDENT law enforcement complaint reporting mechanism exists.

81c *In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.*

Score:	YES
References:	Law on Curbing Economic Crimes and Corruption (No.1104-XV of 06.06.2002) Law on the Statute of the Penal Investigation Office (No.333-XVI of 10.11.2006)
Social Scientist's Comments:	The only specialized agency on fighting corruption and investigate cases of economic crime is the Center on Economic Crimes and Corruption. However, specific investigation offices have been established in many force ministries with the stated mission to investigate specific penal cases, such as exercise and control of the investigations and assessment of violations according to the legislation.

Peer Reviewer's Comments: I would also point to the Internal Affairs offices established in all the law enforcement agencies as another reason for an affirmative answer to this question.

Peer Reviewer's Comments: Also, there is an internal investigation unit within the Interior Affairs Ministry, which investigates the crimes committed by police officers, including corruption charges. There is a similar unit in the Prosecutor-General Office.

81d *In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.*

Score: 50

References: The Center on Economic Crimes and Corruption initiates on its own investigations against the alleged cases of corruption of misdeals involving public officials or private entrepreneurs; US Ambassador Recommended Moldova to Intensify the Fight against Corruption Dec. 14, 2005 www.news.bizpro.md/ro/news/pr.2005/HodgesCo; Republica - paradox Jurnal de Chisinau July 28, 2007 www.jurnal.md/article/2505/; www.amnesty.md/library

81e *In law, law enforcement officials are not immune from criminal proceedings.*

Score: YES

References: Law on the Statute of the Penal Investigation Office (No.333-XVI of 10.11.2006)

Social Scientist's Comments: Law enforcement officials are not immune from criminal proceedings. Most of the legal acts stipulating the functioning or statute of the law-enforcement bodies stipulate also the obligations, limitations and restrictions, which cannot be overpassed by the personnel employed there.

81f *In practice, law enforcement officials are not immune from criminal proceedings.*

Score: 25

References: Law on the Prosecution (1992) Law on the Police (1990) Law on the Center on Economic Crimes and Corruption (2002) Law on the Penal Code (March 24, 1961) Law on Corruption (No.900 of 27.06.1996) www.ihr.md Ziarul de Garda, No.61 of Nov. 17, 2005 www.garda.com.md; www.capc.md/procese.php

Social Scientist's Comments: In practice, police officers are not immune from criminal proceedings. Nevertheless, the judiciary has resolved only the most serious cases where police officers were involved (killings, torture, etc). There were several cases lost in the European Court of Human Rights where the state has been sued by citizens beaten, tortured or arrested illegally by the police officers or other law-enforcement agencies, and in which cases the domestic judiciary simply refused to consider their pledges/cases. There is an accute sentiment across the people that police is protected irrespective to the violations they commit against citizens (house searches without warrants, arrests without approvals, etc). Only in 2005, the security services were forced to close down their preventive penitentiary, but it was made under huge pressure from the international and national actors.