

Moldova

National Strategy for Corruption Prevention and Fighting

(Adopted by Parliament in December 2004)

INTRODUCTION

One of the current priorities of the economic, political and social reforms in the Republic of Moldova is preventing and fighting corruption. Objectively observed, including observation through the perspective of corruption phenomenon, the political, social and economic transition in the past 10 years and more since the declaration of independence of the state has had a devastating impact on the quality of country governing and development, while the proportions and the importance of the fields affected by corruption imperatively request a strategic approach to this phenomenon – drafting and implementing the National Strategy for Corruption Prevention and Fighting (further on referred to as the Strategy).

The appropriateness of the Strategy is determined by the acknowledgement of the fact that corruption eradication is impossible through exclusive application of criminal-restrictive methods. In this context, a new approach to this phenomenon is necessary, including the correlation of corruption prevention actions with actions of discovery, equipment and sanctioning, promoting, at the same time, the mechanisms of market economy.

Creation of the Strategy is also justified by the necessity of an efficient cooperation between the public sector with the private sector and the civil society.

In the creation of the Strategy, the national experience in the field, as well as the practice of some other countries and recommendations from international institutions have been taken into consideration.

The purpose of the Strategy is to reduce corruption in Moldova in order to not jeopardize the rule of law and democracy or not hinder Moldova's economic and social development .

The objectives of the Strategy are the following:

- guaranteeing the supremacy of law (identifying the affected fields, the conditions which favor corruption, its prevention and strengthening the system of discovery and counteraction methods);
- guaranteeing the independence of the three branches of power in the state and preventing corruption within each of them;
- improving the legal frame according to the requirements of international legislation;
- guaranteeing the transparency of activity of public institutions, the access to information, promoting ethical standards;
- rendering active the civil society and the private sector in corruption prevention activities, creating an atmosphere of intolerance towards the phenomenon of corruption.

The basic principles in corruption prevention and fighting are:

- supremacy of law;
- presumption of innocence;
- equality of all citizens in front of the law and guarantee of free access to justice;
- respect of the basic rights and freedoms of human;
- guaranteeing separation of the three branches of state power.

I. CORRUPTION IN THE REPUBLIC OF MOLDOVA

1.1. The term of corruption and its essence

On national levels, corruption is defined, in the Law on corruption fighting and protectionism, as an antisocial phenomenon which represents an unequal understanding between two parts, one of them proposing or promising illegal privileges or benefits, the other one, involved in the public service, approving or receiving them in change of execution or non-execution of certain functional actions, which contain elements of crime as stipulated in the Criminal Code.

The multidisciplinary group of the European Council on problems of corruption defined corruption as any behavior of the persons whose duty is to execute certain obligations in the public or private sector, which conditions infringement of these as a governmental official holding a leadership function, private coworker, independent agent, with the purpose of obtaining an illegal profit for himself and other persons. In this way, the circle of subjects of corruption acts is enlarged, the above mentioned being as well officials in the public sector as in the private sector.

According to the Convention regarding corruption (Strasbourg, November 4, 1999), corruption is viewed as: "the act of requesting, offering, giving or accepting, directly or indirectly, an illicit commission or some other inappropriate benefit, or the promise of such inappropriate benefit, which affects the normal exercise of a function or the behavior of the beneficiary of the illicit commission or inappropriate benefit, or the promise of such inappropriate benefit."

The Criminal Convention of the European Council regarding corruption (Strasbourg, January 27, 1999) defines corruption according to the two methods of its operation – active and passive.

Active corruption is "the promise, offering, or giving, intentionally, by any person, directly or indirectly, of any inappropriate benefit, to a public official, for himself or for somebody else, with the purpose of execution or abstaining from execution of an act in the exercise of his functions."

Passive corruption is "the request or receiving, with intention, by a public official, directly or indirectly, of some inappropriate benefit, for himself or for somebody else, or the acceptance of an offer or promise of such a benefit, with the purpose of execution or abstaining from execution of an act in the exercise of his functions."

According to the Convention, these acts are considered corruption if they are committed by national or foreign public officials, national or foreign deputies, and international parliamentary assemblies, international officials, as well as persons who represent international organizations. Also, corruption deals both with the public sector and the private sector.

In this context, the legislation of the Republic of Moldova ought to be conformed to the requirements of European conventions regarding corruption.

1.2. Causes of corruption occurrence

Corruption is a complex, multi-structural and multidimensional phenomenon, an economic, social and political phenomenon, the complexity of which is determined by diverse causes, which can be classified in economic, institutional, legal, political, social and ethical causes.

Economic causes lie in the increased cost of life, with a continuous growth tendency, degradation of economy, and, as effects, the pauperization of the population, the low and

delayed salaries or public officials, unstable state budget, and excessive regulation in private sector.

Institutional causes encompass the deficient human resources policy, which generates search of methods of obtaining illicit revenue, promoting incompetent persons to leadership positions; lack of transparency in the central and local public administration activity; excessive freedom granted to the decision elements; reduced possibility of revealing of corrupt persons; insufficient equipment with technical means of the law bodies; lack of human resources, logistics, and efficient strategies

Legal causes include some deficiencies in the legislation, as well as the lack of efficient mechanisms of legislation implementation.

Social and ethical causes tie to traditions, mentality, culture and incorporate disintegration and demoralization of the society; erosion of ethical values; insufficient informing of the civil society; civic apathy and passivity; public tolerance; social polarization; dependent mass-media.

Political causes rest in the lack of political will and responsibility, the existence of some internal and external factors which induce group interests in decision taking; unsolved problems of the eastern districts; errors in the process of accomplishing economic and social reforms; dishonest political competition; influence traffic over the mass-media means.

The numerous causes of corruption determine the diversity of the affected fields and the complexity of the necessary actions for prevention and fighting of this phenomenon.

1.3. Consequences of corruption

Summing up the official statistics, scientific research, data presented by nongovernmental organizations, mass-media reports, information received from bodies of law, we draw the conclusion that the phenomenon of corruption has affected the economic, social-politic, institutional and international fields, undermining the state-ship of the republic of Moldova itself.

The economic impact of the corruption is revealed in different ways. Bureaucratic tergiversation upon document preparation, the inability of the state to guarantee the security of the producers, the protectionism, the influence traffic, the dishonest competition, excessive state regulations and controls, which affect the mechanisms of market economy and open competition, discouraging potential investors and entrepreneurial initiative, generate increase of public projects cost, diminishing of the economic efficiency, augmentation of fiscal evasion, reduction of budget payment and development of underground economy.

Social-political effects of corruptions are revealed by the pauperization of the population, increase of social tension, decrease of political competition, expansion of political corruption. The inability of the state to remunerate the employees on a decent level, due to the deficiency of financial resources, alters the quality of public services offered, distorting the image of public bodies, which conditions loss of support from civil society. The lack of trust hinders the reforms and innovations.

In the activity of the executive, corruption has as effect diminished quality of public administration; a system of unofficial decisions; tight connections between organized crime, public officials and corrupt politicians etc.

The effects of corruptions shift into international relations, undermining the reputation of the country.

II. MEASURES OF CORRUPTION PREVENTION AND FIGHTING

Corruption counteraction is a long-term process. This phenomenon cannot be thoroughly eradicated, but it can and must be diminished through strict control, both by applying precautionary measures, which will regard criminal elements and removal of vulnerable parts of corruption, and by unbiased detection of corruption acts, with obligation of the guilty to take legal-criminal, civil, or other kind of responsibility, based on the legislation. It is absolutely necessary to supplement the corruption prevention and fighting measures with the education of the population in the spirit of non-tolerance of corruption and obtaining the population's support in the anti-corruption campaign planned by the public authorities.

These three elements of the strategy shall work together and coordinated in an efficient manner, so that they are independent and the positive effect of one element strengthens the others and vice versa.

Therefore, the strategy's elements shall be as follows :

- counteract corruption by applying effective and efficient criminal prosecution norms ;
- prevent corruption by eliminating the opportunities for corruption in the systems and procedures of public institutions ;
- educate all segments of the population in the spirit of non-tolerance of corruption and develop active support from the people in the prevention and fight against corruption

2.1. Improving the legislative framework and enforcement of the provisions of the legislation

The legislative reform in the Republic of Moldova must contribute to the strengthening of the state of law, the stability and security of social life, the development of a viable market economy, the eradication of elements of risk for corruption through simplification and normative correlation, elimination of double interpretation, codification, adoption of normative acts that would regulate the legal frame of the activities of corruption prevention and fighting

In the legislative field, normative acts that include efficient anticorruption regulations will be created, according to international norms, recommendations and standards.

Concurrently, amending the anticorruption legislation, according to the provisions of international acts; improving the legislative system; removing the contradictions and ambiguities which contribute to double interpretation of the legislation is crucial.

It is also crucial to build the capacities of the institutions in charge for the enforcement of criminal prosecution legislation, reviewing their roles and responsibilities, training and specializing of judges, prosecutors, criminal investigation officers and other staff in the investigation, criminal prosecution and judgment of corruption actions, as well as supply them with the equipment and necessary resources.

2.2. Prevention of corruption in the public institutions and in political process

a. Upgrading the institutional system

The expected effect of the institutional reform is the creation of an efficient institutional system for corruption prevention and fighting, and reduction of corruption risks in public institutions. For this purpose, the structure of public authorities and other state bodies will be optimized by reducing the number of ministries, departments and other bodies, as well as the number of employees, the structure and competence of the state institutions granted with functions of corruption prevention and fighting will be optimized, appointment and promotion of staff will be

done exclusively on the basis of its professionalism, competence, management skills and efficiency, by establishing a well defined mechanism for each ministry, department and other state institutions on the selection and appointment of employees (on the basis of competition, tests, etc.), also evaluating the existing staff; ensuring the stability and maintaining the employees with good professional performance, rebuilding the respect for the job of the civil servant or private worker; exclude from the public authorities the personnel that does not adjust to the efficiency criteria and ethics specific to the respective institutions or does not fulfill its duties according to the established standards; adoption with an utmost promptitude of the necessary measures for remuneration of public service employees in accordance with their responsibilities and risks, so as to ensure a decent living and prevent corruption; , the procedures of state control will become more efficient through the establishment and development of the institute of public and parliamentary control over the compliance with anti-corruption legislation; , internal administrative control mechanisms within the public authorities will be created and implemented. Mechanisms of interaction between the public official and the beneficiary of public services are to be improved. In order to involve the society in corruption prevention and fighting, anticorruption bureaus will be created within the public institutions, state enterprises and organizations. The Principal Committee for Ethics will play an important role in this field, set up under the tutelage of the Government.

b. Guaranteeing transparency and responsibility in political activity

In the political field, a number of actions must be carried out in order to prevent and combat corruption. For this purpose, in order to guarantee transparency and to determine responsibility in political activity and adjusting the national legislation to international requirements, international practice and legislation must be studied. Establishing criminal responsibility for bribing the electors during electoral campaigns as well as parliamentary responsibility in front of the population is of vital importance.

c. Diminishing the effects of corruption on the private sector

Creation of a competitive private sector constitutes a priority of the economic policy of the Republic of Moldova, and in this context the amendment of fiscal and customs legislation in order to reduce the fiscal burden and to enhance the responsibility in case of tax evasion. The mechanism of fighting the phenomenon of fictitious economy and reintegration of its means in the legal economy will be created. A number of measures with the purpose of facilitating the activity of economic agents (registration, licensing, calculating and paying the taxes, compiling the financial, statistic and fiscal reports) will be implemented. At the same time, the mechanism of state regulation of external economic activity and the one of efficient state control of the strategic branches of the economy will be improved.

2.3. Strengthening the cooperation between public institutions and civil society

A major objective of the corruption prevention policy is involving the civil society in the actions of corruption prevention and informing the public opinion on the costs, causes and consequences of corruption. Development of inter-institutional cooperation and relations with civil society will be focused on:

- facilitating the cooperation between the institutions granted with duties in the field of corruption prevention, as well as between these and the civil society;
- coordinating the efforts of these institutions through facilitating the exchange of information, encouraging the joint execution of some actions, obtaining human or technical resources necessary to substantial actions, identifying and solving the main obstructions which appear;
- offering a complete and coherent image of the efforts of authorities in this field.

a. The role of nongovernmental organizations

The role of nongovernmental organizations in corruption prevention and fighting will be extended to their involvement in the expression, promotion and implementation of distinct anticorruption activities; completing specific organizational and practical measures in order to facilitate the cooperation with governmental bodies; periodic organization of joint meetings of the bodies of law, other bodies granted with functions of corruption prevention and fighting and the representatives of nongovernmental organizations with the purpose of examining the results of the joint corruption fighting activity.

b. The role of mass-media

The role of mass-media in corruption prevention and fighting rests in rendering sensitive the public opinion regarding the phenomenon of corruption and the activity of authorities in the field of its prevention and social control, the systematic organization of press conferences and TV and Radio briefings with the purpose of assuring that the population become acquainted with the accomplishments in this field.

c. Civic education

Promoting civic education, especially among the youth, is an important part of corruption prevention, and it includes carrying out specific programs in educational institutions, especially in lyceums and universities.

The purpose of educational anticorruption actions is to inform the citizens of the Republic of Moldova about the danger of corruption, to spread intolerance towards corruption and to encourage corruption fighting activities. The citizens of Moldova are insufficiently informed about human rights and their possibilities to actively fight against corruption. The population can contribute to corruption prevention and fighting, but it does not acknowledge its potential role in this process. In this way, a public anticorruption campaign that would emphasize moral, social and financial damages caused by this phenomenon and suggest the methods for fighting it would be favorable.

2.6. Extending international collaboration

Corruption prevention is a constant concern of international bodies, and for this purpose a number of international documents which regulate the process of the anticorruption fight have been drafted and adopted.

Ratifying civil and criminal conventions regarding corruption oblige the conformation of the normative frame from the Republic of Moldova to the requirements of community legislation and will guarantee the conditions for corruption prevention and control according international standards.

In the field of international cooperation, the Republic of Moldova will continue to participate in the actions, initiatives and projects , with regards to corruption prevention and fighting (S.P.A.I., GRECO etc.), to cooperate with the European Union within the Partnership and Cooperation Agreement (P.C.A.), to join other international acts in the field, to conclude bi- and multi-lateral regarding corruption prevention and fighting.

In order to optimize anticorruption activity, external financial sources, in the form of technical assistance, grants or donations will be engaged.

III. STRATEGY IMPLEMENTATION MECHANISM

The following strategy implementation mechanism will be created and assessed over the next 15 months from the date it is established.

3.1. Action Plan

The objectives of the strategy will be achieved through a detailed action plan. The action plan will specify the measures that need to be taken, the institutions in charge of their fulfillment and timeline.

The action plan will be updated on a regular basis. A progress report will be published and presented to the Parliament each year showing the progress in the action plan implementation. An annual conference will be organized to discuss this report and update the action plan that should ensure the political and public support.

3.2. Coordinating council on fighting against corruption and crime

The coordinating council on fighting against corruption and crime, under the President of the Republic of Moldova, shall generally coordinate and make sure that the public institutions fulfill their responsibilities and undertake actions under their mandate.

3.3. Monitoring Group

The Monitoring Group shall be created by decree. The group will meet at least once a month to discuss the progress and problems in the implementation of the action plan, as well as will come with recommendations on how to address these problems. After each meeting, the Monitoring Group will present a brief report to the Coordinating Council and publish the summary of its discussions in the press.

The Monitoring Group shall consist of the representatives – on the level of heads of divisions or deputy heads – of main institutions in charge of different measures from the action plan, such as:

- Center for Combating Economic Crime and Corruption,
- Ministry of Justice,
- Ministry of Interior,
- General Prosecutor's Office
- Ministry of Finance,
- Ministry of Economy,
- Ministry of Education,
- Ministry of Health,
- Department of Information Technologies,
- High Magistrate's Council,
- High Court of Justice,
- Court of Accounts,
- Department of Border Troops,
- Information and Security Service
- 3 representatives of non-government organizations, including Transparency International-Moldova,
- 3 representatives of associations of businessmen.

The Monitoring Group members shall develop the regulation of the group's activity and elect the chairman.

The Monitoring Group shall develop the annual report on the progress in the implementation of the action plan and recommendations on plan updates.

3.4. Secretariat

The Center for Combating Economic Crime and Corruption shall fulfill the function of the Monitoring Group's Secretariat and ensure the day-to-day implementation of the action plan. The Secretariat shall:

- organize the monthly meetings of the Monitoring Group;
- after each meeting, prepare a report to be submitted to the Coordinating Council and publish a summary in the press;
- assist the Monitoring Group in the preparation of the annual and action plan updates;
- advise and assist the relevant institutions, upon their request, in the implementation of the action plan;
- organize the annual conference on prevention and fight against corruption.

The Secretary of the Monitoring Group shall be appointed by the Director of the Center for Combating Economic Crime and Corruption.