

OUTPUT 1.2 - Legislation improved to effectively prevent and control corruption as foreseen in the anti-corruption strategy and action plans and in accordance with GRECO recommendations and European and United Nations standards

Ratification of relevant conventions

In 2007, the Republic of Moldova ratified the UN Convention against Corruption and the Additional Protocol to the Criminal Law Convention on Corruption.

Anticorruption legislation appraised by the Council of Europe experts: (Venice Commission and Technical Co-operation Department)

Based on formal requests of assistance from the President of the Parliament of the Republic of Moldova, the Council of Europe experts provided expertise on the draft laws on political parties and conflict of interest. The laws were subject to high level public debates, organised in close cooperation with the Parliament. The events brought together more than 150 representatives of the public and private sector as well as mass media representatives (22 – 23 May 2007 - public debate on the draft law on Political parties; 27 November 2007 - public debate on the draft law on the conflict of interest).

With regard to the draft law on political parties, some important expert recommendations were addressed during the debate: the law should not include provisions that aim to limit the number of political parties in the country, as the freedom of association is provided by art.11 of the European Convention of Human Rights and Freedoms. In this regard the registration requirements for political parties, were assessed as unusually and unnecessarily heavy; the criteria on the basis of which political parties may be prohibited, which should be fully transparent and predictable; the internal party control and discipline should be encouraged and enforced by proportional sanctions for violations, especially as regards breaking financial rules; public control of political money should be enforced by means of cross-checking and external auditing; the role of the Central Electoral Commission to monitor the funding of political parties and apply sanctions should be strengthened; the prohibition of funding from abroad – the current “blanket” prohibition is too far-reaching; the law should provide very precise financial rules, including bookkeeping and appointing persons responsible for financial issues. The Members of the Parliament, in their position of the authors of the draft law, seriously considered these recommendations. On 21 December, 2007, the Parliament adopted the law on Political parties, the document being currently under the promulgation procedure. The timeframe, established by law for the enforcement of the regulations regarding financing of political parties, – starting with 2009, raised concern in opposition representatives’ opinions expressed in mass media. After the promulgation of the law, MOLICO Project will undertake an evaluation of the level of incorporation of the recommendations made by the Council of Europe and the Venice Commission experts.

Substantial recommendations were provided by the Council of Europe and Venice Commission experts on the draft law on conflict of interest. While acknowledging the draft as an important and ambitious attempt to regulate the issue of conflict of interests in Moldova, the experts underlined serious problems in the legislative scope, and the absence of a clear framework for supervision and enforcement. Based on these inputs as well as on the results of a public debate, the Legal Commission of the Parliament concluded that the

draft law on the conflict of interest requires substantial additions, revisions and clarifications, before adoption of the law. It is expected that special committee will be established in order to evaluate and incorporate in the draft all expert recommendations providing additional expert support by the Council of Europe.

The Ministry of Justice (MoJ) requested assistance from MOLICO project with drafting of the law on lobbying. According to the revised Anticorruption Action Plan, the draft law on Lobbyism should be developed until November 2008. In the meantime, the MoJ has been already provided, in September 2007, with translation of three EU member States laws on lobbying from EU states: Lithuania, Poland and Hungary.

In May 2007, the CCCEC adopted a revised version of the CCCEC Methodology for corruption proofing of legislation that was subject to COE expert opinion. This methodology is complemented by a *"Guide on corruptibility expert review of the draft legislative and other regulatory acts"* developed by the Centre for Analyses and Prevention of Corruption, NGO (CAPC) with CoE support.

The corruption proofing process carried out by the CCCEC and CAPC-NGO provides a two-level "cleaning filter" identifying corruptibility elements in the draft legislative acts. The corruptibility elements are removed of the draft laws and the representatives of the national authorities are trained to identify these elements and to analyse them in the reports. The first year of implementation demonstrates encouraging results: on the basis of the CCCEC reports up to 80 % recommendations were taken into consideration by the authors of the draft laws, while CAPC-NGO analyses show that 52 % of their findings were accepted and included in the final version of the laws adopted by the Parliament. Proper implementation of the Methodology on two levels of the legislative process: by the CCCEC during the drafting stage and by CAPC-NGO before the adoption of the law by the Parliament in second reading, will contribute substantially to the elaboration of coherent, simple and clear legislative framework. Furthermore, this new instrument enhances the capacity of both CCCEC and NGO sector to detect vulnerabilities and develop preventive measures by identifying the loopholes, overlapping and unclear legislative provisions that may constitute corruptibility risks as well as possible risks for corruption during the implementation phase of the adopted legislation.

With the support of the MOLICO project, the CCCEC representatives attended an international conference on a similar methodology organised by the DUMA, in the Russian Federation. According to the report of the Moldavian experts, the methodology developed by the CCCEC with the support of the Council of Europe is more complex and detailed, offering more possibilities to identify aspects of corruptibility within the draft laws.

Starting with May 2007, the CCCEC in co-operation with CAPC-NGO conducted 12 seminars for representatives of the central and local authorities, on corruption proofing according to the methodology as well as on key aspects related to the corruption proofing of legislation and risk factors that were identified by the CCCEC and CAPC-NGO.

In the first half of 2008, three new important anti-corruption laws that had been reviewed by the Council of Europe expertise, entered into force:

- Law on Political Parties (reviewed by MOLICO and Venice Commission experts in February 2007, adopted by Parliament on 21 December 2007 and published in the Official Gazette on 29 February 2008);
- Law on Conflict of Interest (reviewed by MOLICO and Venice Commission experts in October 2007, adopted by Parliament on 15 February 2008 and published in the Official Gazette on 30 May 2008);

- Law on Preventing and Combating Corruption (reviewed by MOLICO experts in September 2006, adopted by Parliament on 25 April 2008 and published in the Official Gazette on 13 June 2008).

Whilst the listed pieces of legislation do not fully incorporate the recommendations of the Council of Europe, their adoption represents an important step forward which needs to be doubled by proper allocation of resources for an efficient implementation into practice.

According to the new action plan for 2008, the MOLICO project financially supported the participation of additional Moldovan officials in three GRECO Plenary sessions (11 – 15 February, 31 March – 4 April, 9 – 13 June). The February session of GRECO also addressed the Addendum to the Compliance report, submitted by the Republic of Moldova under the first evaluation round. Following the review of the Moldovan progress report, the GRECO Plenary concluded that recommendations 1, 8 and 11¹ were implemented in a satisfactory manner. The 5th recommendation remains implemented only partially and the Republic of Moldova is requested to continue to pay attention to it. The 5th recommendation requires that the code of conduct for public servants is adopted and regularly circulated among public servants and the public at large. The MOLICO project is envisaging support for further implementing this GRECO Recommendation.

The MOLICO project continued to support CCCEC and CAPC in implementing the methodology for corruption proofing of legislation. Both organisations were also actively involved in disseminating this preventive measure as best practice in two very important international meetings:

- a team of two experts from CCCEC and CAPC delivered a presentation in front of GRECO Plenary on Moldovan experience in implementing the corruption proofing of legislation (June 2008). In addition, Moldovan delegates disseminated a CD published by the MOLICO project, including the Corruption Proofing Methodology implemented by CCCEC and the Corruption Proofing Guide developed by CAPC.
- a team of five experts from CCCEC and CAPC attended and delivered presentations within the International Roundtable on Practices and Prospects of development of the legislation regulating anti-corruption expertise of legal acts and draft laws in Russia and other countries of Eastern Europe and Asia (Moscow, Russian Federation, June 2008). The final declaration of this roundtable includes the agreement reached by participants regarding concrete follow-up activities, including the creation of an informal international network of experts on corruption proofing, as well as a follow up international event for these specialists (possibly to be organised in Chisinau in spring 2009).

Nonetheless, it should be mentioned that due to ongoing restructuring of CCCEC and instability regarding the structure of the main beneficiary unit (Prevention, Analyses and

¹ GRECO Recommendation 1 - necessary studies to be carried out in order to gain a clearer insight into the scale of corruption and its various features so that anticorruption initiatives and plans can be targeted more effectively;

GRECO Recommendation 8 - the anti-corruption unit within the Public Prosecutor's Department (or any other anti-corruption body of the Public Prosecutor's Department) be organised in such a way to provide interface with the Centre for Fighting Economic Crimes and Corruption, for example by creating regional divisions.

GRECO Recommendation 11 - necessary financial and technical resources be allocated to the operational directorate of the Customs Department and that officers be given initial and in-service training in regulations and professional conduct.

Prognosis), one training event on corruption proofing of legislation, scheduled for February, was cancelled following a request by the CCCEC management. This situation, as well as the understaffing of this respective unit, needs to be addressed as soon as possible as it has a negative impact on the implementation of the project activities.

- Council of Europe, Venice Commission and OSCE ODHIR provided, during April 2007, opinions regarding the draft law on Political Parties and the draft law on Conflict of Interests, November 2007;
- A high level public debate on the draft law on Political Parties was organised in partnership with the Parliament of Republic of Moldova and in close co-operation with the Venice Commission and OSCE ODHIR (22 – 23 May 2007);
- In co-operation with the Parliament of the Republic of Moldova a public debate on the draft law regulating the Conflict of Interests was organised (27 November 2007);
- Process supported of drafting a methodology for corruption proofing of legislation - Activity 1.2.2. Two short term experts provided expert opinions on the *Draft Methodology of CCCEC and CAPC Guide* that were later on subject to a public debate held in Chisinau, 6-7 March 2007. During May 2007, the revised Methodology was adopted by the management of the CCCEC, currently being used to assess the draft laws;
- 11 half a day in country events were organised by the CCCEC and CAPC - NGO providing corruption proofing training to the representatives of the local authorities: 11 May 2007, Vulcănești, 15 May 2007 Ialoveni, 18 May 2007, Ceadr Lunga and Taraclia, 18 July 2007, Hîncești, 24 July 2007, Anenii Noi, 1 August 2007, Cantemir, 14 August 2007, Ștefan Vodă, 15 August 2007, Cahul, 26 August 2007, Cimișlia, 28 August 2007, Basarabeasca;
- In 20-21 September 2007 – CCCEC and CAPC organised the Training for the experts from the central public authorities on „Anticorruption expertise of draft legislative and regulatory acts”;
- The CoE experts together with the CCCEC and CAPC experts had a working group session focused on analysing and discussing the set of recommendations made with regards to the latest version of the CCCEC methodology (28 – 29 November 2007). The recommendations were also based on the review of 6 CCCEC expertises done in accordance with the new Methodology;
- Two experts from the CCCEC attended an international conference on corruption proofing of legislation, held in Moscow, Russian Federation (21 March 2007); 26-27 March, 2007, Moldovan delegation representing Ministry of Justice, the CCCEC and the Anti-corruption Prosecutor Office attended the Expert Seminar for Eastern Europe and the Central Asia “Criminalisation of Corruption”, Almaty, Kazakhstan.
- Following the new action plan for 2008, the MOLICO programme financially supported the participation of additional Moldovan officials to three GRECO Plenary sessions (February, March, April, June 2008).
- In June 2008 a team of two experts from CCCEC and CAPC delivered a presentation in front of the GRECO Plenary on Moldovan experience in implementing the corruption proofing of legislation. In addition, Moldovan delegates disseminated a CD published by the MOLICO project, including the Corruption proofing methodology implemented by CCCEC and the Corruption Proofing Guide developed by CAPC
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