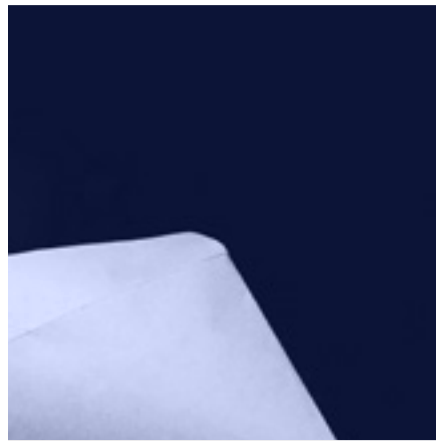




ANTICORRUPTION REPORT

2022



Chisinau, 2023

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ANTICORRUPTION REPORT

2022

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ABBREVIATIONS

CAA	Civil Aviation Authority
AGER	Association for Efficient and Responsible Governance
AmCham	American Chamber of Commerce from Moldova
NIA	National Integrity Authority
PPA	Public Property Agency
CARA	Criminal Assets Recovery Agency
PSA	Public Services Agency
PPB	Public Procurement Bulletin
CB	Commercial Bank
BCS	Bloc of Communists and Socialists
CA	Court of Appeal
CAPC	Center for Analysis and Prevention of Corruption
CEEP	Center for Entrepreneurship and Economic Policies
IAAC	Independent Anti-Corruption Advisory Committee
CEC	Central Electoral Commission
ECtHR	European Court of Human Rights
IC	Integrity Council of the National Integrity Authority
NAC	National Anticorruption Center
SCM	Superior Council of Magistracy
SCJ	Supreme Court of Justice
SCP	Superior Council of Prosecutors
GD	Government decision
HP	Parliament decision
IDSI	Institute for Development and Social Initiatives
GPI	General Police Inspectorate
NIJ	National Institute of Justice
NPI	National Probation Inspectorate
MIA	Ministry of Internal Affairs
MAPS	Methodology for Assessing Procurement Systems
MJ	Ministry of Justice
OPA	Office of the People's Advocate

APO	Anticorruption Prosecutor's Office
EU AP	The action plan for the implementation of the measures proposed by the European Commission in its Opinion on the application for the accession of the Republic of Moldova to the European Union
POCOCSC	Prosecutor's Office for Combating Organized Crime and Special Cases
PCRM	Party of Communists from the Republic of Moldova
DPM	Democratic Party of Moldova
UNDP	United Nations Development Programme
PSRM	Party of Socialists from the Republic of Moldova
RAI	Regional Anticorruption Initiative
RM	The Republic of Moldova
JSC	Joint-stock company
AIS „SRPP”	Automated Information System “State Register of Public Procurement”
SIS	Security and Intelligence Service
NIAS	National Integrity and Anti-corruption Strategy
IPAS	Internal Protection and Anticorruption Service of the Ministry of Internal Affairs
LLC	Limited liability company
USA	United States of America
UE	European Union

EXECUTIVE SUMMARY

The annual Anticorruption report is a product realized by the Center for Analysis and Prevention of Corruption that lists the main Anticorruption progresses and news from the year 2022. The report, organized in ten chapters, presents a retrospective analysis of the Anticorruption measures carried out in the most important areas, the arrears and the deficiencies identified by experts, mass media and civil society organizations.

THE ANTICORRUPTION COMMITMENTS ASSUMED IN THE PROCESS OF JOINING THE EUROPEAN UNION

Until the end of 2022, the Republic of Moldova has fully implemented 3 out of 15 Anticorruption actions, contained in the Plan for the implementation of the steps proposed by the European Commission. Another 4 actions are partially completed, and of these, 2 are delayed and will be completed beyond the deadline indicated in the Plan. Only one Anticorruption action has not been carried out, which refers to the amendment of the legislation to clearly delineate the powers of the Anticorruption Prosecutor's Office and the National Anticorruption Center in relation to grand corruption. Another 7 actions are due to be completed by 2023 and, most likely, will be completed during that year.

The expertise carried out on some Anticorruption legislative initiatives found several gaps and risks. Thus, the expansion of the range of crimes for which the extended confiscation could be applied is neither appropriate nor necessary and may generate multiple abuses, in particular, on the part of criminal investigation bodies. Regarding the amendment of the Law on the Prevention and Combating of Money Laundering and the Financing of Terrorism, the

unsatisfactory quality of the act presented to the Parliament and already approved in the first reading was found to be unsatisfactory, caused by the elusion of the process of expertise, approval and adjustment of the draft law.

INDEPENDENCE AND INTEGRITY OF THE JUSTICE

The Republic of Moldova implemented several actions in 2022 to reform the justice system. These reforms aim at aligning the legal framework in the field of the judicial system with the new constitutional provisions; improvements brought to the regulations regarding the Superior Council of Magistracy and its specialized bodies, the National Institute of Justice and the bodies of the Prosecutor's Office; as well as the evaluation of candidates for the position of member in the self-administration bodies of judges and prosecutors ("pre-vetting").

The Anticorruption expertise of the normative framework that refers to the "pre-vetting" Commission emphasizes the need to carry out the evaluation based on clear and objective criteria, by an impartial and independent institution, with the minimum involvement of the politician and the executive in the evaluation process and with the guarantee of independence of the self-administration bodies of judges and prosecutors and their members. The Center for Analysis and Prevention of Corruption started monitoring the meetings and decisions of the "pre-vetting" Commission, whose mandate was extended until June 30, 2023. During 2022, the Commission held hearings regarding 21 candidates for the position of SCM member, having issued 9 decisions regarding them.

At the end of 2022, several drafts of important

normative acts for the justice sector are in the process of examination, not having been adopted yet, such as the draft law amending Article 70 of the Constitution of the Republic of Moldova, which would allow easier investigation and prosecution of deputies suspected of corruption; legislative initiatives regarding simplified procedures in the criminal process, disciplinary liability of judges and judicial inspection. If about the draft law regarding the Supreme Court of Justice and the draft law for the amendment of the law on pre-vetting, which are at the stage of public consultations, the expertise noted the lack of clarity of several norms, problems from the perspective of international standards and risks of unconstitutionality.

ANTICORRUPTION INSTITUTIONS

During 2022, the Anticorruption mandate of the Ministry of Internal Affairs remains unclear, and the Security and Intelligence Service does not publish systematic information on the institution's activity. In addition, things do not seem to have significantly improved in the activity of key Anticorruption authorities.

The National Integrity Authority operates without a president, whose mandate has ended, and the organization and conduct of the competition for the position of president does not seem to be a priority for the Integrity Council. In the first half of 2022, the refusal rate in the initiation of control of wealth and personal interests constituted 76%, and the rate of classification/termination of control is 51%. Likewise, the finality of the control remains a problem for NIA, which has not yet succeeded in obtaining any irrevocable court decision by which the confiscation of unjustified wealth would be ordered.

As for the National Anticorruption Center, the institution has a new director, appointed at the beginning of the year, after the exclusion of competition procedures for this position, a decision criticized on the grounds that it would be contrary to international Anticorruption standards and the jurisprudence of the Constitutional Court. For the first half of 2022, the institution had in charge 842 criminal cases, 160 of which were completed, of which 95 were referred to justice, the other 65 criminal cases being

closed/terminated for various reasons (termination rate is 41%).

The Anticorruption Prosecutor's Office faced a serious image crisis, caused by the leaks of information from the private correspondence of high-ranking officials from the Republic of Moldova, revealing the messages related to the competition for the position of the Chief Prosecutor of the institution. For the year 2022, the Anticorruption Prosecutor's Office failed to increase its visibility as an Anticorruption authority, not providing systematized/generalized information on the institution's activity.

ILLICIT ENRICHMENT AND DETERMINING THE UNJUSTIFIED CHARACTER OF THE WEALTH

A record number of criminal cases for illicit enrichment was initiated in 2022. Thus, in the first 10 months, 40 criminal cases were initiated, targeting the ex-president of the Republic of Moldova, the ex-minister, the ex-director of SIS, the suspended Prosecutor General, 16 deputies/ex-deputies, 3 judges, 3 prosecutors, 8 collaborators/ex-collaborators of the Ministry of Internal Affairs, 3 ex-employees of the National Anticorruption Center, an employee of the Customs Service, the ex-president of the Parliament, a former head of department within the State Fiscal Service, 2 other subjects. Only one of the 40 files was sent to court. Two other cases, started in previous years, also were sent to court in 2022.

Until December 2022, the National Integrity Authority found the unjustified nature of the wealth in 13 cases. Substantial or obvious differences between the wealth of the subjects declared in the income statement and their legal income ranged from 166,070 MDL, in the case of the ex-vice president of the Anenii Noi district, and up to 1,175,457 MDL in the case of the ex-President of the Republic of Moldova, Igor Dodon.

CASES OF GRAND CORRUPTION

In 2022, as in the previous year, dozens of criminal cases related to so-called "grand corruption" were opened, in which current or former high-ranking officials are targeted. Criminal

cases have been opened regarding: the suspended Prosecutor General, Alexandr Stoianoglo; the president of Cahul district; the president of the National Integrity Authority; deputies Ilan Shor and Mariana Tauber; the director of the National Probation Inspectorate; the head of the radiology department within the Oncological Institute; employees of the Public Services Agency. The majority of those who ended up being investigated for acts of corruption are the persons who, at the time the criminal cases were initiated, no longer held high positions in the state (Vladimir Plahotniuc, Vladimir Andronachi, Eugeniu Nichiforciuc, other ex-deputies, the former president of the Republic of Moldova, Igor Dodon, ex-director general of the Public Property Agency, former director of the Civil Aviation Authority, former president of the Chisinau Court, employees of the Public Services Agency). At the same time, most of the criminal cases started are still in the criminal investigation phase, only a few of them have been sent to court. No judgment of conviction has been made so far.

RECOVERY OF CRIMINAL ASSETS

In 2022, difficulties continue in the process of recovering criminal assets. The efficiency of the Criminal Assets Recovery Agency cannot be measured only by the sequestrations established on assets, the value of which is periodically communicated to the public. The most important indicator of efficiency in the recovery of criminal assets is the percentage of capitalized assets – that is, confiscated, traded and the revenues transferred to the state budget. According to public data, the share of capitalized assets of those sequestrated is 0.5%. For comparison, Europol statistics estimate that the share of capitalization in total sequestrations constitutes 50%.

During 2022, the Parliament adopted several legislative acts aimed at improving the mechanism for the recovery of criminal assets, and several important projects for this field are under review. At the same time, several studies and analyses were developed by civil society organizations, with recommendations that can contribute to improving the normative framework and achieving the expected results.

THE INSTITUTION OF INTEGRITY WHISTLEBLOWERS AND PROTECTION MECHANISMS

The mechanism of integrity warnings is not fully used and applied in the Republic of Moldova neither by employers nor by employees, even if several efforts have been undertaken by the authorities and civil society in promoting and applying this mechanism. A CAPC study found only 4 integrity warnings (in 2 cases protection was requested), reported in the period 2018-2022 (Q1) in 54 public authorities surveyed. NAC, as the authority empowered to register and examine external disclosures of illegal practices, noted that it registered 11 integrity warnings in the period 2018-2022.

At the beginning of 2022, 7 cases regarding the protection of potential whistleblowers were under investigation by the People's Advocate. In 3 cases, decisions were issued to terminate the examination, and 4 cases were examined in court. In general, the courts do not examine files involving whistleblowers through the lens of the whistleblower mechanism, usually limiting to examining them from the perspective of an ordinary labor dispute, possibly operating with some findings of the Ombudsman. In only one case was it possible to cancel the retaliatory measures and reinstate the rights of the whistleblower. During 2022, another 7 requests for protection as an integrity whistleblower were received at the address of the People's Advocate. In 5 cases, decisions were issued to terminate the examination, because the facts were not proven, and 2 cases are in the documentation process.

There are a number of systemic problems in the effective functioning of the whistleblower mechanism, namely: the lack of an umbrella institution to monitor and guide public entities and agents in the application of the mechanism; very weak protective measures compared to the effects of retaliation on employees and the complexity of subsequent legal proceedings; almost non-existent or questionable judicial practice; the lack of action algorithms in the case of public warnings: who reports, who examines, etc.

ACCESS TO INFORMATION AND TRANSPARENCY OF THE DECISION-MAKING PROCESS

A retrospective of several studies and research carried out highlights that ensuring an open governance continues to be a problem in the Republic of Moldova.

Among the major deficiencies in the process of requesting access to information are as follows: invoking the protection of personal data; defective appeal procedure; inconsistencies between the Law on access to information and the Administrative Code; uneven judicial practice, etc. In 2022, the Ministry of Justice initiated the process of drafting a new law on access to information of public interest to meet modern standards.

The last Report of the State Chancellery, published in March 2022 and describing the situation in 2021, mentions several achievements of the Government and central public administration authorities regarding the transparency ensuring in the decision-making process.

On the other hand, the studies of civil society organizations carried out in 2022 highlighted several deficiencies, obstacles and gaps in ensuring decision-making transparency and public participation in the decision-making process in the Parliament. The process of public consultations in the Legislature is a difficult and incomplete one, it comes down to the publication of draft laws on the Parliament's website, with a low rate of hearings and public debates (especially regarding initiatives and amendments submitted by deputies), organized mainly between the first and second readings, ignoring the opinions expressed by the consulted parties and not informing about the results of the public consultations. In addition, the urgency with which draft laws are examined and adopted, in violation of the established deadlines for public consultation and receiving recommendations, or without public consultations, is worrying.

To increase the involvement of civil society in the decision-making processes at all levels, the EU AP provides for the commitment to ensure

until June 2023 the operation of the existing permanent consultative platforms at the level of the central public authorities (Government), as well as the launch and operationalization of a permanent cooperation platform with civil society in Parliament, as a new tool for involving interested parties in the legislative process.

INTEGRITY AND TRANSPARENCY IN PUBLIC PROCUREMENT

The public procurement sector is a priority in the most important public policy documents, and the fight against procurement corruption is one of the Government's priority measures. However, the progress made towards the development of the public procurement sector in 2022 is extremely modest.

Arrears are noted in the direction of improving the legislation and the development of the secondary normative framework, which leads to contradictions, discretion in the application of the rules, associated with risks of corruption, but also difficulties for the authorities and operators in the procurement process. The certification of specialists in the public procurement sector has been on hiatus for several years, including in 2022, this mechanism was not developed and approved. No progress has been registered in the development of the MTender electronic procurement system either, whose technical functionality does not ensure a fully electronic procurement process – from planning to the execution of contracts. The year 2022 was also one with extremely modest results in terms of sectoral public procurement, although more than 2 years have passed since the adoption of the law on procurement in the energy, water, transport and postal services sectors. Although the investigations of civil society and journalists, as well as the audit of the Court of Accounts, carried out in 2022, identify multiple frauds and illegalities in purchases, those responsible are not investigated and prosecuted according to law.

Low value procurement continues to lack transparency, and the high discretion afforded to contracting authorities creates risks of corruption. This is in the context where the value of low-value purchases is estimated at around 9

billion MDL from the total volume of public procurement of around 20 billion MDL, which also increased by 62% compared to the same period of the previous year. In 2022, the Ministry of Finance developed a new regulation on low-value public procurement, which is approved by the Government and is to be applied from 01.07.2023. The provisions of the new Regulation were criticized by the representatives of civil society, who found that a draft Regulation different from the draft consulted with them was approved, without considering the proposals on transparency and open access to data on low-value purchases.

INTEGRITY IN BUSINESS

In 2022, the regulatory framework was strengthened with the measures of ensuring integrity in the private sector. The private sector actions in

the National Integrity and Anticorruption Strategy have been modified. There were also interventions on the Contravention Code, through which some measures to protect whistleblowers, which also apply to the private sector, were rethought. Another law that took effect during 2022 refers to the obligation of the state registration body to verify and publish information on the name, surname and country of residence of the beneficial owners of legal entities and individual entrepreneurs.

Among the events that took place during 2022 and that supported honest and transparent businesses in the private sector was the awarding of companies for the implementation of integrity and Anticorruption standards in business within the “Trademark of the Year” contest.

INTRODUCTORY ASPECTS

Reducing the phenomenon of corruption and its consequences is a constant challenge for the Republic of Moldova, which has adhered to multiple international documents in the field of anti-corruption, developed and implemented numerous public policies and anti-corruption instruments. Despite these efforts, we see modest progresses in the prevention and fight against corruption.

According to international evaluations, the Republic of Moldova scores low points on a number of indicators, such as the fight against corruption, the independence of the justice sector, the functionality of public institutions, etc. In the same way, national surveys highlight corruption as one of the problems that the society of the Republic of Moldova is concerned about the most. Corruption interferes and has consequences with any field of public and private life, it has consequences on the quality of life of citizens, the solution of social problems, the provision of necessary services to the public, the protection and defense of the rights of the population, national security and personal safety, etc.

Acts of corruption, with the involvement of dignitaries and civil servants at the central and local level, are constantly in the sights of the mass media, which in recent years have carried out multiple journalistic investigations, brought to the attention of the public and the national authorities, without reactions in most cases. Anti-corruption policies in various sectors have been the subject of research, analysis and monitoring by experts and civil society organizations, which have put forward numerous recommendations to increase integrity and reduce corruption.

With the granting of the Republic of Moldova the status of a candidate country for the accession to the European Union, the prevention and fight against corruption becomes a priority and a commitment of the national authorities. The action plan for the implementation of the measures proposed by the European Commission in its Opinion on the application for the accession of the Republic of Moldova to the European Union includes a set of anti-corruption actions, which are to be implemented in a limited time.

The annual anti-corruption report of the Republic of Moldova is a tool for mapping the main events, news and anti-corruption measures from the year 2022. The present report presents an overview of the situation in the country, listing the main backlogs and deficiencies in the prevention and fight against corruption.

The findings of the report can serve as an aggregate source of information for public authorities, political decision-makers and civil servants, mass media, donors, international organizations and development partners of the Republic of Moldova. In addition, it can represent a starting point for the prioritization of anti-corruption measures by the responsible public authorities, the development and adoption of anti-corruption policies, the removal of existing deficiencies in various fields and sectors, the improvement of anti-corruption tools and mechanisms.

The annual anti-corruption report of the Republic of Moldova was produced within the **“Core support to the CAPC”** Project, implemented by the Corruption Analysis and Prevention Center (CAPC), with the support of the Swedish International Development Cooperation Agency.

I. Anticorruption commitments assumed by the Republic of Moldova in the European Union accession process

I.1. Anticorruption responsibilities in policy documents

The fight against corruption is a continuous process since the independence of the Republic of Moldova, being considered a priority in recent years, with the negotiation and signing of the Association Agreement between the Republic of Moldova, on the one hand, and the European Union and the European Atomic Energy Community and its member states, on the other hand.

The Anticorruption commitments assumed by the Republic of Moldova have been reflected over the years in several policy documents; The Association Program between the European Union and the Republic of Moldova (updated and completed with activities for the period 2017-2019¹), the National Action Plan for the Implementation of the Association Agreement² (updated for the period 2017-2019), the legislative Program for the implementation of the EU-Moldova Association Agreement for the year 2017³, etc.

The national integrity and Anticorruption strategy for the years 2017-2020 is one of the important Anticorruption policy documents. The NIAC implementation deadline was extended until 2023⁴, with the inclusion of new actions in the Action Plan to ensure the achievement of the goals proposed by this strategic document.

On 23.06.2022, the European Council granted the Republic of Moldova the status of a candidate country for accession to the European Union. Previously, the European Commission issued the opinion⁵ on the application for membership, stating the necessary actions to be taken in various fields, including the prevention and fight against corruption. The EU Commission recommends fulfilling the commitment to fight corruption at all levels by taking decisive action towards proactive and effective investigations, as well as by achieving a credible record of criminal prosecutions and convictions.

As an answer, the Republic of Moldova approved on 4.08.2022 an **Action Plan⁶ for the implementation of the measures proposed by the European Commission**. The Anticorruption actions included in point 3 of the Plan refer to Anticorruption policies; the independence and efficiency of Anticorruption institutions; improvement of criminal investigation procedures, special investigation and court processes and procedures; improving the integrity whistleblower tool; carrying out operational, strategic analyses, Anticorruption expertise by NAC; increasing the share of corruption cases investigated and brought before the court, etc. Additionally, in point 5.2 of the Plan, actions related to Anticorruption measures were inserted, which refer to the establishment of a legislative package on asset recovery and a comprehensive framework for combating fi-

¹ Recommendation no. 1/2017 of the EU-RM Association Council of August 4, 2017 regarding the EU-RM Association Program [2017/1489]

² Government Decision no. 1472 of 30.12.16

³ Parliament decision no. 1 of 24.02.17

⁴ Parliament Decision no. 241 of 24.12.2021 regarding the amendment of Parliament Decision no. 56/2017

⁵ The opinion of the European Commission regarding the application for accession to the European Union of 17.06.2022

⁶ Action plan approved by the National Commission for European Integration on 08/04/2022

financial crime and money laundering: combating illicit enrichment and confiscating the proceeds of crimes on corruption and related; the adoption of a National Program for the recovery of criminal assets; the transposition into national legislation of the provisions of the EU Directive on combating money laundering; etc.

I.2. Achievements and arrears in the implementation of Anticorruption commitments

This section lists the actions of the national authorities during the year 2022 regarding the implementation of Anticorruption measures, included in point 3 and point 5.2 of the EU AP.

Action from EU AP	Deadline	Execution data	Conclusions
3.1.1. Amending the legislation to establish the mechanism for criminal prosecution, condemnation and sentencing in the absence of persons who evade criminal prosecution	October 2022	Law no. 189 on the amendment of some normative acts (adopted before the adoption of the EU AP - 4.08.2022)	Fulfilled

On July 14, 2022, **Law no. 189 was adopted for the amendment of some normative acts**⁷ (note: the law was adopted before the adoption of the Action Plan - 08/04/2022). Through the nominated law, aimed to regulate the mechanism to trial criminal cases in the person's absence, changes were made to the Code of Criminal Procedure and Law no. 198/2007 regarding legal assistance guaranteed by the state. The new provisions allow the prosecution of a person in his/her absence and the trial of

the case in the absence of the defendant for cases where the person evades prosecution or evades participation in the trial.

The adopted legal provisions were the object of the constitutionality control following the exception of unconstitutionality raised in the file in which Vladimir Plahotniuc appears as an accused. By the decision of the Constitutional Court no. 138 of September 29, 2022⁸, the notification was declared inadmissible.

Action from EU AP	Deadline	Execution data	Conclusions
3.1.2. Amending the legislation (Criminal Procedure Code and, if necessary, the Law on the National Anticorruption Center and the Law on Specialized Prosecutors' Offices) to clearly delineate the powers of the Anticorruption Prosecutor's Office and the National Anticorruption Center in relation to high-level corruption	December 2022	No legislative initiatives were identified	Unfulfilled

At the time of the preparation of this report (28.12.2022), no legislative initiatives adopted to clearly delimit the competences of the

Anticorruption Prosecutor's Office and the National Anticorruption Center regarding high-level corruption have been identified.

⁷ Law no. 189 of July 14, 2022 for the amendment of some normative acts

⁸ Decision of the Constitutional Court no. 138 of September 29, 2022 on the inadmissibility of the notification no. 149g/2022 regarding the exceptions of unconstitutionality of art. 2911 para. (1) and (2) and art. 3051 para. (2), (4) and (5) of the CPC (completion of criminal prosecution in the absence of the accused)

Action from EU AP	Deadline	Execution data	Conclusions
3.1.3. Improving the legislation on special investigative measures (Criminal Procedure Code and Law on special investigative activity)	December 2022	The Draft Law for the amendment of some normative acts, registered in the Parliament with no. 451 of 8.12.2022	Partially fulfilled, with delay

The Parliament approved in the first reading, within the plenary session of 29.12.2022, **the draft Law for the amendment of some normative acts, registered in the Parliament with no. 451 of 8.12.2022**⁹. According to the authors of the draft law, the purpose of the project is to improve the normative framework, which regulates the special activity of investigations within the criminal process and outside it. The main objectives of the project correspond to those of the EU AP and refer to the following:

- clear and strict delimitation of the special investigative activity carried out within the criminal process and outside the criminal process;

- strengthening and increasing the investigative capacities in the criminal process (on criminal files) for the purposes provided in the Criminal Procedure Code no. 122/2003;
- strengthening and increasing investigative capacities outside the criminal process (on special files) for the purposes provided for in the Law on special investigative activity no. 59/2012;
- regulation of an effective control mechanism (authorization and verification) of special investigative measures ordered and carried out outside the criminal process

The draft Law no. 451/2022 is to be approved in the second reading, most likely, in the spring session of the Parliament.

Action from EU AP	Deadline	Execution data	Conclusions
3.1.4. Improving the regulatory framework regarding whistleblowers (Law no. 122/2018 on whistleblowers and Government Decision no. 23/2020 for the approval of the Regulation on the procedures for examination and internal reporting of disclosures of illegal practices)	June 2023	No legislative initiatives were identified	Due in 2023

At the time of drafting this report, no legislative initiatives adopted to improve the regulatory framework regarding whistleblowers have been

identified. Starting from the deadline of the Plan, the respective action can be carried out until June, 2023.

Action from EU AP	Deadline	Execution data	Conclusions
3.1.5.a. Carrying out operational analyses of acts of corruption and acts related to corruption, as well as of corruptible acts	Quarterly	NAC performs such analyses, but they are not public. Impossible to evaluate their quality and efficiency	Partially fulfilled

⁹ The draft law for the amendment of some normative acts no. 451 of 8.12.2022

The National Anticorruption Center constantly conducts operational analyses of acts of corruption and acts related to corruption, as well as of corruptible acts. As a rule, weekly press releases¹⁰ are published on the NAC website about the activities carried out, which also include information about the operational analyses carried out. The last press release from the year 2022¹¹ indicates that the Analytical Directorate of the NAC has carried out 9 operational analyses; another 75 studies are in

the process. Since the operational analyses are not made public, we do not know if they refer to the aspects mentioned in the Plan, namely: “operational analysis in cases where the assets of public persons are involved in relation to their incomes (unjustified assets, undeclared assets of public procurement, etc. and/or registered with third parties, suspicious income), kinship and business relationships, the activity of economic operators within the procedures”.

Action from EU AP	Deadline	Execution data	Conclusions
3.1.5.b. Carrying out strategic analyses of acts of corruption and acts related to corruption, as well as of corruptible acts	March, 2023	No strategic analyses were identified	Due in 2023

At the time of the preparation of this report, no strategic analyses were identified regarding the convictions adopted, during the year 2022, in cases of corruption and related acts, as well as corruptible acts, as provided by the EU AP. NAC

carried out such strategic analyses in 2022¹², but they refer to the cases of the previous year – 2021. Starting from the deadline of the Plan, the respective action can be carried out until March of 2023.

Action from EU AP	Deadline	Execution data	Conclusions
3.1.6. Increasing the proportion of corruption cases investigated as a result of proactive measures	January, 2023 (subsequently the information will be presented quarterly)	There are no statistical data made public by the competent authorities. Info from alternative reports	Due in 2023
3.1.7. Increasing the share of corruption cases brought to court in relation to those investigated			
3.1.8. Increasing the efficiency of prosecutors in representing the prosecution in court proceedings, especially in cases of corruption.			

The General Prosecutor’s Office annually publishes its activity reports on its web page¹³, which contains some statistical data. The last report published on the web refers to the activity of the prosecutor’s office in 2021¹⁴. At the time of the preparation of this report, statistical data for the year 2022 were not identified regarding: the total number of criminal cases filed versus

the number of criminal cases filed proactively; the total number of criminal cases filed versus the number of criminal cases submitted to the court; the total number of criminal cases sent to court versus the number of criminal cases completed with a conviction. Starting from the deadline of the EU PA, the respective actions can be carried out until January of 2023.

¹⁰ Press releases on the NAC web page

¹¹ NAC press release of 26.12.2022

¹² Sectoral strategic analyses carried out by the National Anticorruption Center

¹³ The annual activity reports of the General Prosecutor’s Office

¹⁴ Report on the activity of the prosecutor’s office in 2021

According to the Assessment Report of the Efficiency of Complaint Mechanisms Regarding Corruption in the Public Sector of the Republic of Moldova¹⁵, developed by CAPC, in the period 2018-2022 (quarter I) 2,988 criminal cases were opened (APO – 597; NAC – 2,078; GPI – 313), 1,073 corruption cases were sent to examination

in court (APO – 190; NAC – 853; GPI – 30), and in the case of 176 corruption cases a sentence was issued (statistical data were collected from the Anticorruption Prosecutor’s Office, the National Anticorruption Center and the General Police Inspectorate).

Action from EU AP	Deadline	Execution data	Conclusions
3.2.1. Ensuring that no legislative project is adopted by the Government without Anti-corruption expertise from the National Anticorruption Center	Quarterly	No statistical data was identified	Partially fulfilled

The State Chancellery (responsible authority according to the Plan) did not publish (quarterly) statistical data regarding the weight of draft normative acts approved by the Government, accompanied by the Anticorruption expertise¹⁶ carried out by the National Anticorruption Center. All Anticorruption expert reports carried out on draft laws and the Government decisions are published on the NAC website. At the moment, we do not have statistical information on the number of Anticorruption expert reports drawn up and the number of projects subject to Anticorruption expertise, including by category of normative acts, published, as a rule, in the annual activity reports of the National Anticorruption Center.

The subject of Anticorruption expertise is addressed in the **Report “Breaking the vicious circle: rethinking the Anticorruption institutional framework in the Republic of Moldova”**¹⁷, elaborated by the Independent Anticorruption Advisory Committee¹⁸.

The report provides an overview of the Anticorruption and integrity architecture in the Republic of Moldova and offers a series of

recommendations for each institution, aimed at addressing the main vulnerabilities and improving long-term performance. Among the report’s recommendations is the proposal to amend the Law on the NAC and other relevant normative acts to exclude the function of Anticorruption expertise, with its transfer to the Ministry of Justice. It is motivated by the fact that the nature of Anticorruption expertise falls, rather, in the competences of the Ministry of Justice or another public entity that deals with the elaboration of policies or laws, than in the competence of an investigative body.

At the same time, we must note that the obligation of Anticorruption expertise has been established since 2017, by SNIA, Action 35 “Transmission of all draft legislative and normative acts subject to Anticorruption expertise, after the finalization of the projects following the approval, to the NAC for the performance of Anticorruption expertise”. According to the SNIA Monitoring Reports for the years 2017-2020, the 2018-2020 reporting period, action 35 was qualified as partially fulfilled.

¹⁵ <https://www.capc.md/wp-content/uploads/2022/10/Raport-de-evaluare-a-eficientei-mecanismelor-de-plingere-privind-coruptia-in-sectorul-public-al-Republicii-Moldova.pdf-1.pdf>

¹⁶ The anti-corruption expert reports published on the website of the National Anti-corruption Centre

¹⁷ The report “Breaking the vicious circle: rethinking the anti-corruption institutional framework in the Republic of Moldova”, Independent Anti-Corruption Advisory Committee, 2022

¹⁸ Established by the Decree of the President of the Republic of Moldova no. 114-IX of 10.06.2021 regarding the establishment of the Anti-Corruption Advisory Committee along to the President of the Republic of Moldova

Action from EU AP	Deadline	Execution data	Conclusions
5.2.1. Amendment of the Criminal Procedure Code to establish an extended confiscation mechanism	December, 2022	Law no. 190 of July 21, 2022, on the modification of some normative acts	Fulfilled Questionable quality of the adopted regulatory framework (CAPC)

Prior to the approval of the EU AP, the Parliament adopted the **Law no. 190 of July 21, 2022 for the amendment of some normative acts**¹⁹, which aims to apply in practice the extended confiscation mechanism, provided for in art. 1061 paragraph (1) and paragraph (2) of the Criminal Code of the Republic of Moldova.

legislative initiative and found several gaps and risks. In the analysis, it is argued that the expansion of the circle of crimes for which the extended confiscation could be applied, which will also be applied in the case of the crimes of blackmail, fraud, tax evasion, unfair competition, is neither appropriate nor necessary and can generate multiple abuses, in particular, on the part of criminal investigation bodies.

CAPC **examined**²⁰ the provisions of the

Action from EU AP	Deadline	Execution data	Conclusions
5.2.2. Amending the legislation to implement the civil forfeiture mechanism	June, 2023	No legislative initiatives were identified	Due in 2023

At the time of writing this report, no legislative initiatives have been identified to implement the civil forfeiture mechanism. Starting from the

deadline of the Plan, the respective action can be carried out until June of 2023.

Action from EU AP	Deadline	Execution data	Conclusions
5.2.3. Adoption of a National Program for the recovery of criminal assets to develop an effective and efficient mechanism for freezing, seizing, confiscating and capitalizing criminal assets	December, 2022	Parliament decision no. 342 of 15.12.2022	Fulfilled

Through Parliament Decision no. 342/2022, **the National Program for the recovery of criminal assets for the years 2023-2027 and the Action Plan regarding the implementation of the National Program for the recovery of criminal assets for the years 2023-2027 were approved.** The program aims to increase the transparency

and accountability of the institutions involved in the criminal asset recovery system in the Republic of Moldova, by ensuring a better data collection and dissemination of information related to the seizure and confiscation of criminal assets.

¹⁹ Law no. 190 of July 21, 2022, on the modification of some normative acts

²⁰ CAPC opinion regarding draft Law no. 26 of 02.02.2022 to amend the Criminal Code of the Republic of Moldova

Action from EU AP	Deadline	Execution data	Conclusions
5.2.4. Amendment of the Law on the Prevention and Combating of Money Laundering and the Financing of Terrorism to transpose into the national legislation the provisions of the fifth EU directive on combating money laundering and the implementation of the Moneyval recommendations	December, 2022	Draft law no. 427 of 24.11.2022 for the amendment of some normative acts	Partially fulfilled, with delay Questionable quality of the adopted regulatory framework (CAPC)

The draft **Law no. 427 of 24.11.2022 for the amendment of some normative acts**, approved in the first reading, in the plenary session of 22.12.2022, is registered²¹ in the Parliament. It foresees the improvement of the normative framework regarding the prevention and combating of money laundering and the financing of terrorism, by: completing with several notions (“Effective beneficiary”, “Politically exposed persons”, “virtual currency”, etc.); including the obligation for the Public Services Agency to report suspicious transactions identified in the process of providing public services; the insertion of the obligation for the reporting entities to record in an evaluation report the results of the analysis of the risks of money laundering and terrorism financing in their own field of activity; assigning the competence to the State Fiscal Service to create, manage and update the Register of safe deposit boxes of natural and legal persons, etc.

According to the authors, the development of proposals to amend the legal framework

was imposed by the need to implement the recommendations of the report from the 5th evaluation round of the MONEYVAL Committee of the Council of Europe, in order to transpose the provisions of Directive (EU) 2018/843 of 30.05.2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, as well as amending Directives 2009/138/EC and 2013/36/EU, as well as the updated provisions of the Financial Action Task Force (FATF) Recommendations (Recommendations 15 and 24).

The CAPC expertise²² objects to the low quality of the text of the draft law presented to the Parliament, caused by the circumvention of its expertise and approval process.

Draft Law no. 427/2022 was not adopted within the deadline indicated in the EU AP (December 2022). We estimate that it will be approved in the second reading, most likely, in the spring session of the Parliament.

Action from EU AP	Deadline	Execution data	Conclusions
5.2.5. Approval of secondary legislation to implement the provisions of the amended Law on the Prevention and Combating of Money Laundering and the Financing of Terrorism	June, 2023	No legislative initiatives were identified	Due in 2023

At the time of the preparation of this report, no normative acts have been identified for the implementation of the provisions of the amended Law on the prevention and combating

of money laundering and the financing of terrorism. Starting from the deadline of the Plan, the respective action can be implemented until June of 2023.

²¹ Draft law no. 427 of 24.11.2022 for the amendment of some normative acts

²² CAPC opinion regarding the draft Law no. 427 of 24.11.2022

During 2022, two more **legislative initiatives** related to Anticorruption and the EU AP were examined or adopted in the legislative procedure.

The Ministry of Justice developed and submitted to public consultations the draft Law on the implementation of international restrictive measures against persons involved in acts that threatened fundamental human rights, democracy and the rule of law (**Magnitsky Act (Republic of Moldova)**). The regulatory object of the draft Law is the method of national implementation of the measures regarding the persons targeted by international sanctions. The author notes that the basis of the project were the sanctions applied by the administration of the United States of America from 26.10.2022 regarding the persons presumed to be guilty of acts of corruption, undermining the rule of law, abuse of human rights and other crimes, some of which being the citizens of the Republic of Moldova.

According to the CAPC **Opinion**²³, the proposed project attempts to replace criminal justice on the territory of the Republic of Moldova, under the pretext of aligning with the sanctions imposed by other states, with executive sanctioning acts, contrary to the constitutional and international regulations regarding human rights.

Through the **Law no. 73 of March 31, 2022, on the amendment of some normative acts**²⁴ changes were made to sanction political and electoral corruption. Thus, criminal sanctions and sanctions for contravention were increased for some acts that jeopardize the fair and free conduct of the elections; a new criminal component was introduced – the illegal financing of political parties, electoral competitors, initiative groups or electoral campaigns. The misdemeanour code was supplemented with new misdemeanours, including the organized transport of voters. In the Electoral Code, the candidates' use of administrative resources was defined and regulated to prevent and combat the abusive use of resources during electoral processes.

According to the CAPC **Opinion**²⁵, drawn up at the stage of public consultations, the proposed changes are based on a series of theoretical and doctrinal ideas, without an analysis of statistical data (divided by case and typology of violations examined by the CEC, as well as the specifics of voter corruption files instrumented by criminal investigation institutions). In addition, the authors did not argue the fact that the increased fines and penalties will contribute to a more effective investigation of the stated crimes.

²³ CAPC opinion regarding the draft Law on the implementation of international restrictive measures against persons involved in acts that have threatened fundamental human rights, democracy and the rule of law (Magnitsky Act (Republic of Moldova))

²⁴ Law no. 73 of March 31, 2022 regarding the modification of some normative acts

²⁵ CAPC opinion regarding the draft Law no. 347 of 10.11.2021

2. INDEPENDENCE AND INTEGRITY OF JUSTICE

II.1. Justice sector reform in national policy documents

On 31.12.2021, the **Strategy regarding ensuring the independence and integrity of the justice sector for the years 2022-2025 and the Action Plan for its implementation** entered into force.²⁶ This policy document sets three strategic directions of intervention, eleven specific objectives and actions with an implementation deadline for the years 2022-2025. For the year 2022, twenty-six actions of normative nature and thirty actions of analytical nature were established aimed at ensuring a body of judges and prosecutors with integrity and professionals, establishing mechanisms to increase the quality and clarity of judicial acts, strengthening and developing the system training of prosecutors and judges, reorganizing the prosecution system, strengthening the mechanisms of independence and organization of professions related to the justice system and improving the quality of the services provided, establishing clear rules for the formation of rates for the services provided, etc.

In the EU AP, several actions are indicated regarding the justice system, which are to be implemented by the authorities of the Republic of Moldova until June 2023. They refer to the alignment of the legal framework in the field of the judicial system with the new constitutional provisions; amending the legal framework regarding the disciplinary liability of judges; improvements brought to the regulations regarding the Superior Council of Magistracy and the specialized bodies of the SCM, the National Institute of Justice and the bodies of the Prosecutor's Office; carrying out the

evaluation of candidates for the position of the Superior Council of Magistracy member, the Superior Council of Prosecutors and their specialized bodies ("pre-vetting").

II.2. Legislative initiatives to reform the justice system

By the **Law no. 11 of 21.01.2022 for the amendment of the Law no. 3/2016 regarding the Prosecutor's Office**²⁷, the conditions of professional experience necessary for the accession to the position of Prosecutor General and Chief Prosecutor in the specialized Prosecutor's Offices were changed, so that persons who have 10 years of professional experience in the field of law both in the country and abroad, as well as judges, lawyers, etc. can apply for this position.

In CAPC Opinion²⁸, presented at the stage of public consultations, it is objected to the exclusion of two important conditions to apply for the position of Chief Prosecutor of the specialized Prosecutor's Office, including the Anticorruption Prosecutor's Office. As for the initial training courses for candidates for the position of prosecutor, including taking the exam before the NIJ, they are a mandatory condition for the appointment and cannot be excluded by law. At the same time, the exclusion of the requirement for candidates to have entries in the professional integrity record, in the last 5 years, regarding the negative result of the professional integrity test for violating the obligation not to admit manifestations of corruption will make it possible to admit the candidates who were targeted in corruption cases.

²⁶ Law no. 211 of December 6, 2021 for the approval of the Strategy on ensuring the independence and integrity of the justice sector for the years 2022–2025 and the Action Plan for its implementation

²⁷ The Law no. 11 of 21.01.2022 amending Law no. 3/2016 regarding the Prosecutor's Office

²⁸ CAPC opinion regarding the draft Law no. 334 of 09.11.2021

The Law no. 47 of 10.03.2022 for the amendment of article 13 of the Law no. 154/2012 on the selection, performance evaluation and career of judges²⁹ was adopted to synchronize the legal provisions with the constitutional amendments related to the judicial system, which were adopted by the Law no. 120/2021 to amend the Constitution of the Republic of Moldova, especially with reference to the exclusion of the initial term of appointment.

Through the adoption of the **Law nr.26 of 10.03.2022 regarding some measures related to the selection of candidates for the position of member in the self-administration bodies of judges and prosecutors (pre-vetting)**³⁰, a mandatory stage for evaluating the integrity of candidates for the position of the Superior Council of Magistracy member, of the Superior Council of Prosecutors and in their specialized bodies is established. The evaluation is carried out by means of a specialized commission, which adopts decisions regarding the results of the candidates' integrity evaluation.

According to CAPC **Opinion**³¹, verifying the integrity of candidates is a reasonable solution to improve the situation in the justice system. However, the establishment of special legal rules for conjunctural situations does not meet the regulatory requirements in general, nor the regulatory requirements of the legal system organization, in particular. At the same time, the evaluation cannot be carried out by undermining judicial independence and is to be carried out in accordance with the international standards of the rule of law, of human rights, as well as the international commitments assumed by the Republic of Moldova. In addition, the evaluation procedure is to be carried out on the basis of clear and objective criteria, with minimal political and executive involvement in this process.

By the **Law no. 94 of 14.04.2022 for the amendment of article 251 of the Law no. 3/2016 regarding the Prosecutor's Office**³², the additions were introduced to the text of the adopted rule only 3 months ago. The legislator decided to clarify some procedures related to the process of pre-selection and selection of candidates for the position of Chief Prosecutor of the specialized Prosecutor's Offices. Thus, new eligibility conditions were inserted (professional and managerial competence); the selection only of those candidates who passed the eligibility test at the pre-selection stage was foreseen, with the explicit establishment of the function and powers of the pre-selection committee.

By the **Law nr.228 of 28.07.2022 for the modification of some normative acts**³³, the obligation to declare wealth is established at the stage of admission to the National Institute of Justice, in order to ensure the integrity of candidates. Also, the Law stipulates for the candidate for the position of judge the obligation of polygraph testing according to the Law no. 269/2008 on the application of simulated behaviour detector (polygraph) testing.

The **Law no. 246 of 29.07.2022 for the amendment of some normative acts**³⁴ was adopted in order to implement the constitutional amendments regarding the judicial system³⁵. The Law excludes the initial term of 5 years for the appointment of judges, unifies and simplifies the appointment of presidents and vice-presidents of courts of all levels, excludes legal members from the composition of the SCM, increases the duration of the SCM membership mandate from 4 to 6 years, with the prohibition for all SCM members to hold 2 mandates consecutively. In addition, according to the new provisions, the judge only benefits from functional immunity, but may be held liable for acts of corruption.

²⁹ The Law no. 47 of 10.03.2022 for the amendment of article 13 of the Law no. 154/2012 regarding the selection, performance evaluation and career of judges

³⁰ The Law no. 26 of 10.03.2022 regarding some measures related to the selection of candidates for the position of member in the self-administration bodies of judges and prosecutors

³¹ CAPC opinion regarding the draft Law no. 11 of 19.01.2022

³² The Law no. 94 of 14.04.2022 for the amendment of article 251 of Law no. 3/2016 regarding the Prosecutor's Office

³³ The Law no. 228 of 28.07.2022 for the modification of some normative acts

³⁴ The Law no. 246 of 29.07.2022 for the modification of some normative acts

³⁵ The Law no. 120 of September 23, 2021 to amend the Constitution of the Republic of Moldova

The Law no. 280 of 06.10.2022 amending the Law no. 3/2016 on the Prosecutor's Office³⁶ was drafted and adopted in order to implement the recommendations of the Venice Commission in the Opinion no. 1058/2021. The proposed changes aim, in particular, at the evaluation of the performance of the Prosecutor General, the advisory nature of the evaluation report, the mandate of the deputies of the Prosecutor General, the composition of the SCP, the particularities related to the provision of the interim position of Prosecutor General, the method of involving the Chief Prosecutor of the specialized Prosecutor's Offices in the process of appointing his deputies.

During 2022, the examination of several draft normative acts with the declared aim of strengthening the independence and integrity of the justice sector was initiated, not having been adopted yet.

On 19.05.2022, the Parliament approved in the first reading the draft **Law no. 319 of 2.11.2021 amending art. 70 of the Constitution of the Republic of Moldova**³⁷, which would allow easier investigation and prosecution of deputies suspected of corruption. The rule provides that prosecutors will no longer have to ask Parliament's permission to take measures against the accused deputy. The immunity of deputies will be excluded in the case of crimes of active or passive corruption, influence peddling, excess or abuse of power, illicit enrichment and money laundering.

In the second quarter of 2022, the Ministry of Justice submitted for coordination **the Concept of the draft Law on the reform of the Supreme Court of Justice**³⁸. Subsequently, the Ministry of Justice developed the draft Law on the Supreme Court of Justice and the draft Law for the amendment of Law no. 26/2022 regarding some measures related to the selection of candidates for the position of member in the self-

administration bodies of judges and prosecutors. Through these initiatives, the Government proposes a deep reform of the judicial system, in general, and of the SCJ in particular.

According to the author, the reform of the SCJ is motivated by the decrease in the credibility of the judicial act, the lack of effective methods to standardize judicial practice, the blockage during the last 3 years of the activity of the SCJ Plenary, the arbitrary interventions of the SCJ when examining some cases, the inefficiency of the evaluation and disciplinary procedure, the existence of suspicions of the integrity of the SCJ judges. In addition, the proposals to amend the normative framework are aimed at the extraordinary evaluation of the judges of the Supreme Court of Justice.

The expertise³⁹ carried out by the CAPC finds several gaps and risks regarding the above-mentioned initiatives. In the CAPC **analysis**⁴⁰ regarding the draft Law on the Supreme Court of Justice, the lack of clarity of several norms in the text of the draft and the lack of important regulations are noted. As for the draft Law for the amendment of the Law no. 26/2022, it cannot be supported, in principle, in the part related to the extraordinary evaluation of SCJ judges. According to the CAPC's **analysis**⁴¹, the project generates problems from the perspective of international standards, but also from the perspective of constitutional norms. Or, the "vetting" procedure requires increased attention, which ensures proportional guarantees in order to avoid abuses when carrying out inspections regarding SCJ judges (candidates), including it should respect the current Constitution and, in particular, the constitutional provisions regarding the independence of the judicial system.

The draft Law for the amendment of some normative acts, registered in the Parliament with no. 466 of 14.12.2022⁴², refers to the disciplinary liability of judges and judicial

³⁶ The Law no. 280 of 06.10.2022 amending Law no. 3/2016 regarding the Prosecutor's Office

³⁷ Draft Law no. 319 of 2.11.2021 amending art. 70 of the Constitution of the Republic of Moldova

³⁸ The concept of the draft Law on the reform of the Supreme Court of Justice, developed by the Ministry of Justice

³⁹ CAPC's Opinion regarding the draft Law on the reform of the Supreme Court of Justice

⁴⁰ CAPC Opinion regarding the draft Law on the Supreme Court of Justice (repeated)

⁴¹ OCAPC opinion on the draft Law for the amendment of the Law no. 26/2022 regarding some measures related to the selection of candidates for the position of member in the self-administration bodies of judges and prosecutors (repeated)

⁴² Draft Law no. 466 of 14.12.2022 for the modification of some normative acts

inspection. The project seeks to modify the legal framework in terms of: ensuring the clarity and predictability of the criteria that constitute disciplinary violations; simplifying the procedure for examining disciplinary violations and contesting disciplinary sanctions applied; the regulation of the rights, obligations, guarantees of inspectors-judges; performance evaluation of inspectors-judges, etc.

In the CAPC **Opinion**⁴³, drawn up at the stage of public consultations organized by the Ministry of Justice as the author, some gaps and ambiguities in the draft text were highlighted. Thus, it was observed that the author privileges judges to accede to the position of inspector-judge, compared to other persons who meet the conditions to accede to this position. The analysis also claims that those who apply the law have an unjustifiably wide margin to qualify behavior as disciplinary misconduct, the judge being in a state of legal uncertainty.

The draft Law for the amendment of some normative acts, registered in the Parliament with no. 472 of 14.12.2022⁴⁴, refers to the simplified procedures in the criminal process (the plea agreement, the judicial agreement in the public interest and the trial of the case based on the evidence administered in the phase of criminal prosecution) and proposes solutions that will relieve the courts of the large volume of cases, will speed up their instrumentation at the criminal investigation phase and at the trial phase, will facilitate the faster recovery of the damages caused by crimes, while avoiding delays of the cases examination, as well as avoiding the prescription expiry, etc.

That initiative, although it is an important one, requires substantial drafting in terms of language and legal expression, as well as in terms of excluding the appearance of corruptible

elements. According to the CAPC **Opinion**⁴⁵, unclear and/or inappropriate rules, which contain ambiguous wording that admit abusive interpretations and do not provide sufficient enforcement mechanisms, are to be revised.

II.3. "Pre-Vetting" Commission

The "Pre-Vetting" Commission is consisting of 6 members⁴⁶, three are appointed at the proposal of the development partners of the Republic of Moldova, approved by the vote of 3/5 of the elected deputies, and three members citizens of the Republic of Moldova are appointed at the proposal of the parliamentary factions, approved by the vote of 3/5 of elected deputies. The members of the commission were appointed by the decisions of the Parliament in the following composition:

- Nadejda HRIPTIEVSCHI⁴⁷, member of the Lawyers' Union from the Republic of Moldova, founder and director of programs at the Legal Resources Center;
- Tatiana RĂDUCANU⁴⁸, retired judge of the Supreme Court of Justice, former member of the Superior Council of Magistracy;
- Vitalie MIRON⁴⁹, legal advisor within the Office of the General Mayor of Chisinau;
- Herman von HEBEL⁵⁰, part-time criminal judge at the Court of Appeal in Den Bosch, Netherlands;
- Victoria HENLEY⁵¹, international consultant in judicial discipline systems, ethics systems and anti-corruption measures;
- Nona TSOTSORIA⁵², former judge at the European Court of Human Rights and former Deputy Prosecutor General of Georgia.

On July 28, 2022, the press service of the Evaluation Commission issued a press release informing that it had started the evaluation

⁴³ CAPC opinion on the draft Law for the amendment of some normative acts (disciplinary responsibility of judges and judicial inspection)

⁴⁴ Draft Law no. 472 of 14.12.2022 for the modification of some normative acts

⁴⁵ CAPC opinion on the draft Law for the amendment of some normative acts (simplified procedures in the criminal process)

⁴⁶ The Parliament decision no. 88 of 04.04.2022

⁴⁷ The Parliament decision no.84 din 04.04.2022

⁴⁸ The Parliament decision no.85 din 04.04.2022

⁴⁹ The Parliament decision no. 86 of 04.04.2022

⁵⁰ The Parliament decision no. 87 of 04.04.2022

⁵¹ Ibid.

⁵² Ibid.

process of the first group of candidates for the position of SCM member from among judges. On 21 June 2022, the Commission invited all candidates to voluntarily complete an ethical integrity questionnaire. And on July 8, 2022, the Commission sent the first 28 candidates for the SCM the Declaration of wealth and personal interests form and the form regarding the list of close people from the judicial system, the Prosecutor's Office and the public service, for completion.

According to the existing procedures, the main stages of the evaluation of the candidates' integrity, which consists in checking their ethical integrity and financial integrity, are as follows:

- requesting and submitting the declaration of assets and personal interests by the candidate;
- requesting standard data on candidates, family members and other persons concerned in the evaluation process from state authorities and other entities;
- analysis of spontaneous information sent by citizens, civil society organizations and others;
- inviting candidates and conducting public hearings;
- decision regarding the evaluation result (can be contested).

Following the evaluation procedure, the "Pre-vetting" Commission issues a reasoned decision regarding the promotion or non-promotion of the evaluation. The decision regarding the non-promotion of the evaluation constitutes a legal basis for the non-admission of the candidate to the elections or competition for the position of member in the self-administration bodies of judges and prosecutors.

In 2022, the Commission held 21 hearings regarding candidates for the position of SCM member. Until the start of the candidate hearing process, the Commission issued and published 4 decisions not to promote the evaluation by 4 candidates, as a result of their voluntary withdrawal from the competition or failure to submit the declaration of assets and personal interests within the deadline. After the start of the candidate hearing process

and until the end of 2022, the Commission issued 9 decisions, of which 5 decisions were published on the web page (3 decisions to promote the evaluation and 2 decisions not to promote the evaluation) and 4 decisions are not published on the web page, because the candidates refused to publish the decisions (they are the decisions not to promote the evaluation). The other decisions are to be publicly announced along the way. The adopted decisions and the video recordings of the hearings can be consulted on the website of the Commission www.vetting.md.

At the end of 2022, the deadline for applying the Law no. 26/2022, the Commission has not yet completed the evaluation of the candidates for the vacant positions in the Superior Council of the Magistracy. As a result, for the completion of this exercise, as well as for the evaluation of the candidates for the vacant positions in the other institutions, the Parliament amended⁵³ the Law no. 26/2022, and the respective Commission will be active until June 30, 2023. This amendment also results from the Government's intentions to evaluate the integrity of the judges of the Supreme Court of Justice, which will be entrusted to the same Commission and will be carried out according to the mechanism regulated by the Law no. 26/2022.

Additionally, the new amendments to the Law no. 26/2022, aim at the work process of the Evaluation Commission and the elimination of some difficulties detected in practice. The respective modifications relate to the procedure deadlines established for the Evaluation Commission, the way of working with personal data, as well as the way of publishing the Commission's decisions and the video recordings of the hearings.

The innovative mechanisms regarding the process of electing members in the self-administration bodies of judges and prosecutors have aroused increased interest from the public, civil society, and the development partners. Based on a methodology, CAPC started monitoring the meetings and decisions of the "Pre-Vetting" Commission. The purpose of monitoring is to oversee how the Commission fulfills its mandate for which it was established.

⁵³ Draft Law no. 436 of 30.11.2022 to amend Law no. 26/2022, adopted by the Parliament during the plenary session of 22.12.2022

3. ANTI-CORRUPTION INSTITUTIONS

III.1. General Considerations regarding anti-corruption authorities

In the sense of art. 3 of the Integrity Law no. 82/2017, the following are the anti-corruption authorities: the National Integrity Authority (NIA); National Anticorruption Center (NAC); Ministry of Internal Affairs (MIA); Anticorruption Prosecutor's Office (APO); Security and Intelligence Service (SIS).

As for the **Ministry of Internal Affairs**, the anti-corruption mandate of this authority is not clarified. The Law on integrity only mentions that the MIA, along with APO, NAC and NIA, is responsible for detecting and examining manifestations of corruption. Also, the MIA subjects to additional verifications the declarations of wealth and personal interests of the public agents within the MIA by applying the consequences provided by the special legislation that regulates the activity of the respective category of public agents. In this case, the consequences applied cannot be less serious than the consequences applied by virtue of the general rules.

In this case, reconsideration of the rules would be welcome. First of all, it is necessary to clarify the anti-corruption mandate of the MIA. Secondly, with regard to the additional verifications of declarations of wealth and personal interests, parallel mechanisms of control and of sanctioning violations in the matter are established, the mechanisms that could affect the independence of the anti-corruption authorities employees, which is an inadmissible fact.

Regarding the **Security and Intelligence Service**, by virtue of the Integrity Law, SIS is responsible

for: verifications of the holders and candidates for public positions, under the conditions of the Law no. 271/2008 on the verification of holders and candidates for public positions; testing professional integrity of its own public agents and those within the NAC, as well as managing the record of professional integrity regarding them. SIS does not publish semi-annual/annual reports and does not provide any systematized/generalized information regarding its activity.

In the information that follows, we will refer, in particular, to the activity of the National Integrity Authority, the National Anticorruption Center and the Anticorruption Prosecutor's Office, these three entities being key authorities in the matter.

III.2. Activity of key anti-corruption authorities

a. National Integrity Authority

On April 5, 2022, the mandate of the NIA president ended, the reason being the resignation request of the position holder.⁵⁴ According to the Law no. 132/2016 regarding the National Integrity Authority, the mandate of the NIA vice-president ends with the mandate of the NIA president, but he continues to exercise his duties until a new vice-president is appointed. Despite these provisions, the organization and conduct of the competition for the post of NIA president does not seem to have been a priority for the Integrity Council (IC). The announcement regarding the organization and conduct of the competition was published on the NIA website on December 17, 2022.⁵⁵

In the part related to the competition, in the

⁵⁴ Decree of the President of the Republic of Moldova regarding the termination of the mandate of the National Integrity Authority President, no. 408/2022

⁵⁵ Announcement of the Integrity Council regarding the organization and conduct of the competition for the position of president of the National Integrity Authority

absence of explicit official information, a problem seems to be the eventual non-application of the registration procedure by the Ministry of Justice (MoJ) of the Regulation on the conduct of the competition for the position of the National Integrity Authority president, approved by the IC Decision no. 22/2022.⁵⁶ By virtue of art. 37 paragraph (4) of the Law no. 100/2017 on normative acts, the normative acts of the specialized central public administration authorities and of the autonomous public authorities that aim at the rights and legitimate interests of man are subject to mandatory legal expertise and is recorded by the MoJ. In this case, the Regulation falls under the scope of these requirements, aiming at a constitutionally guaranteed right by art. 39 of the Constitution – the right to administration. According to the constitutional norms, citizens of the Republic of Moldova have the right to participate in the administration of public affairs directly, as well as through their representatives. Any citizen must be guaranteed, according to the law, access to a public office.

Another problem would be the credibility of the Integrity Council. First of all, we note that, ignoring the provisions of art. 12 paragraph (1) letter e) of the Law no. 132/2016 regarding the National Integrity Authority, the Congress of Local Authorities of Moldova did not appoint its representative in the IC. Starting from the way of appointing the composition, the IC is perceived as politically loyal, the majority being selected/appointed by the Parliament, the President of the Republic of Moldova, the Government and the Ministry of Justice – the authorities led by the descendants of a single political party. Secondly, the composition of the IC includes the representative appointed by the Superior Council of Prosecutors (SCP), who figures in the scandal of the “rigged” contest for the position of the Chief Prosecutor of the Anti-corruption Prosecutor’s Office, a scandal about which the authorities have not made any clarification. It is noteworthy that Svetlana Balmuş was appointed to the composition of the SCP by the President of the Republic of Moldova.⁵⁷

Declarations of wealth and personal interests submitted/repeated/verified

Regarding the submission of declarations of wealth and personal interests, in the first quarter of 2022, 65,583 declarations were submitted (annual, upon employment/validation, release/termination of mandate), about 8% of the declarations constituting their repetitive derivatives.⁵⁸

	Quarter I, 2018	Quarter I, 2019	Quarter I, 2020	Quarter I, 2021	Quarter I, 2022
Declarations submitted	58.080	58.619	65.806	65.232	65.583
Repetitive declarations (Share of repetitive declarations from the total of submitted declarations)	4.261 (7%)	4.313 (7%)	5.148 (8%)	6.052 (9%)	4.945 (8%)
Verified declarations (Share of verified declarations from the total of submitted declarations)	i/i (i/i)	2.764 (5%)	2.634 (4%)	4.488 (7%)	i/i (i/i)

Source: developed by the author based on the NIA activity reports⁵⁹

Starting with 2018, the year of the launch of the “e-Integrity” automated information system, the number of declarations is increasing until 2020. In 2021, there is a decrease in the number of declarations, a process followed, in 2022, by a non-essential increase. Moreover, the number

of submitted declarations cannot serve as a performance indicator. As long as we do not have information about the total number of declarations that were to be submitted, we cannot draw conclusions about the trend. More important is the tracking of the repeatedly

⁵⁶ Decision of the Integrity Council no. 22/2022 regarding the approval of the Regulation for the conduct of the competition for the position of president of the National Integrity Authority

⁵⁷ The Decree of the President of the Republic of Moldova no. 168/2021 regarding the appointment of Mrs. Svetlana Balmuş as a member of the Supreme Council of Prosecutors

⁵⁸ NIA activity report in the first quarter of 2022, p. 4

⁵⁹ NIA’s annual activity reports

submitted declarations share, which, in the first quarter of 2022, is decreasing, constituting, however, a value that should not be ignored. The indicator is to be tracked and analyzed. Possibly, the trend could be improved by clearer instructions given to filers through guides/ tutorials.

With reference to the verification of the statements, the process was delayed. The criteria for selecting and verifying the declarations were approved by the IC more than three months after the deadline for submitting the annual declarations – on July 5, 2022.⁶⁰ Currently, we do not have systematized/generalized data on the verification process. In previous years, the share of verified statements was modest. We see a certain increase in 2021, an increase that could be due not so much to the efficiency of NIA’s activity, but to the increase in the number

of functions performed by integrity inspectors, a process that continued in 2022. Thus, from 15 integrity inspectors in year 2020, NIA reaches 19 inspectors in 2021 and 24 at the beginning of 2022.

It should be noted that the national normative framework distinguishes the verification of declarations from the actual control of wealth and personal interests. The verification process is regulated by art. 27 of the Law no. 132/2016 regarding the National Integrity Authority, according to which the verification is initiated after the expiration of the submission deadline and consists in the verification of: submission of the declarations within the deadline; compliance with the requirements for the form of declarations; the existence of the appearance of a violation of the legal regime for declaring wealth and personal interests.

Minutes regarding control

Year	Control initiation	Refuse to initiate	Total
2018	135 (75%)	44 (25%)	179
2019	301 (66%)	152 (34%)	453
2020	400 (53%)	352 (47%)	752
2021	404 (31%)	897 (69%)	1301

In the part related to the control activity, for the first six months of 2022, NIA reported the preparation of 344 control minutes, of which 82 cases resulted in the initiation of the control, and the other 262 cases – with the refusal in control initiation⁶¹. Thus, in the first half of 2022, the refusal rate in the initiation of control constituted 76%. This refusal share could be a record if the trend continues in the second half of 2022.

Source: developed by the author based on the NIA activity reports

Considering this context, it would be appropriate to fundamentally analyze the reasons for refusal when initiating the control in order to effectively and efficiently intervene in this compartment.

Acts of control

Likewise, it should alarm the rank/ termination rate of control. For the first six months of 2022, NIA reported the preparation of 282 findings, of which in 138 cases violations were found, in the other 144 cases the control was terminated. Thus, the termination rate is 51%, a share that could be a record if the trend continues in the second half of 2022.

Year	Finding	Ranking	Total
2018	29 (76%)	9 (24%)	38
2019	94 (64%)	53 (36%)	147
2020	210 (61%)	137 (39%)	347
2021	216 (49,9%)	217 (50,1%)	433

Source: developed by the author based on the NIA activity reports

⁶⁰ Integrity Council Decision no. 17/2022 regarding the approval of the criteria, according to which declarations of wealth and personal interests will be selected and verified

⁶¹ NIA activity report in the first semester of 2022, p. 4

And with reference to this indicator, a fundamental analysis of the reasons for the termination of control is important, in order to come up with solutions in order to make NIA's activity more efficient.

NIA has not yet succeeded in obtaining any irrevocable court decision ordering the confiscation of unjustified wealth. It should be noted that on July 1, 2022, NIA reports 20 requests for the confiscation of unjustified assets addressed to the courts.⁶²

One problem remains the finality of the control.

Budget allocated to the NIA

Year	Budget (thousands of MDL)
2019	24128,0
2020	29962,5
2021	20397,6
2022	20436,2

It should be noted that the budget allocated to NIA is increasing, the record value attested being determined by the transfer to another premises and its reparation.

Source: developed by the author based on the NIA activity reports

Through the adoption of the Law no. 96 of 14.04.2022 for the amendment of some normative acts⁶³, which aims to clarify the declaration manner and object at the stage of drawing up the declaration of assets and interests, the Law no. 3/2016 regarding the Prosecutor's Office, the Law no. 544/1995 regarding the status of the judge, the Law no. 132/2016 regarding the National Integrity Authority, the Law no. 133/2016 regarding the declaration of wealth and personal interests have been modified.

b. National Anticorruption Center

On February 3, 2022, a new NAC director was appointed.⁶⁴ The appointment was made after the exclusion of competitive procedures for the positions of the NAC director and deputy director. The waiver of competition procedures affects the credibility of the leader and of the institution, being criticized, first of all, because it is contrary to international anti-corruption standards (art. 7 of the United Nations Convention against Corruption).

Secondly, the waiver of competition procedures is contrary to the jurisprudence of the

Constitutional Court, which distinguishes between the two categories of official persons: official persons exponents of a special political interest; official persons exponents of a special public interest.⁶⁵ The first category includes persons who hold political positions within political institutions, they are eminently political persons and, in the exercise of their duties, they must show loyalty and consistency for the achievement of political goals. In this sense, the positions of prime minister and ministers could serve as an example, which must show consistency, loyalty and political attachment to the government program, for which fulfillment they occupy respective positions. As for the second category, the persons included in it require a certain degree of independence. The duties of these persons do not involve direct employment in the political activity of the state, they are governed only by the law, and the procedure for their establishment and removal from office is expressly provided for in special laws. The leaders of the anti-corruption authorities belong to the second category. Thus, in order to ensure their independence, these persons should be appointed on the basis of competition.

⁶² NIA activity report in the first semester of 2022, p. 11

⁶³ The Law no. 96 of 14.04.2022 for the modification of some normative acts

⁶⁴ The Parliament Decision no. 14/2022 regarding the appointment of National Anticorruption Center director

⁶⁵ See the jurisprudence of the Constitutional Court: Decision no. 22/2016, Decision of the Constitutional Court no. 29/2010, Decision of the Constitutional Court no. 10/2010

Crimes detected, according to categories

Regarding the basic activity, for the first half of 2022, NAC reported the detection of 291 crimes, of which: 217 corruption and corruption-related crimes; 74 other categories of crimes.⁶⁶

	2019	2020	2021
Corruption and corruption-related offences	566	449	602
Other categories	86	172	141
Crimes detected, total	652	621	743

Source: developed by the author based on the NIA activity reports⁶⁷

The evaluation of the trend is not possible, because the NAC does not regularly publish half-yearly reports. However, if the same dynamics are maintained for the second half of 2022, the value of the indicator could be more modest than that reported for previous years.

In the first six months of 2022, the most frequent crimes, of those detected, are: passive corruption

- 69 crimes; influence peddling - 39; abuse of power or abuse of office - 38; active corruption - 32; making, possessing, selling or using fake official documents, printers, stamps or seals - 21; forgery in public documents - 13; fraud - 12.⁶⁸ For comparison, in previous years, the crimes of passive corruption, influence peddling, and active corruption had an essential share.

Criminal cases managed (including retained in proceedings) and criminal cases completed

In the first half of 2022, the NAC managed 842 criminal cases, of which 428 - detained for investigation.⁶⁹

	2019	2020	2021
Under management	1893	1530	1321
Retained in proceedings	1158	943	928

In the same period of 2022, 160 criminal cases were completed⁷⁰ of which 95 were deferred to justice, the other 65 criminal cases being closed/terminated for various reasons. Thus, the ranking rate is 41%. If this trend continues in the second half of 2022, we will be able to see an improvement in this indicator.

	2019	2020	2021
Terminated	329 (55%)	347 (67%)	223 (52%)
Deferred to justice	267 (45%)	170 (33%)	203 (48%)
Total	596	517	426

Source: developed by the author based on the NIA activity reports

In general, things do not seem to be essentially improved. Thus, it will be interesting to see how the activity of the NAC will be appreciated by the Parliament, the previous head of the NAC being dismissed precisely for lack of performance.⁷¹

It should be noted that the total approved budget of the National Anticorruption Center is continuously increasing, from 121,779.2 thousand MDL in 2019 to 134,215.3 thousand MDL in 2022.

⁶⁶ NAC activity report for the first semester of 2022, p. 4

⁶⁷ The annual activity reports of the NAC

⁶⁸ NAC activity report for the first semester of 2022, pp. 4-5

⁶⁹ NAC activity report for the first semester of 2022, p. 8

⁷⁰ NAC activity report for the first semester of 2022, pp. 8-9

⁷¹ Parliament Decision no. 187/2021 regarding the dismissal from office of the director of the National Anticorruption Center

c. Anticorruption Prosecutor's Office

With reference to the Anticorruption Prosecutor's Office, the authority has failed to increase its visibility and institutional accountability. The Anticorruption Prosecutor's Office does not prepare activity reports, neither does it provide systematized/generalized information regarding the activity during the year. In 2022, the authority faced an image crisis, caused by the leaks from the private correspondence of high-ranking officials from the Republic of Moldova⁷² with the messages related to the competition for the position of the APO Chief Prosecutor.

We remind you that on 04.02.2022 the Superior Council of Prosecutors initiated the competition⁷³ for the selection of the candidate for the position of the Anticorruption Prosecutor's Office Chief Prosecutor. Also on 04.02.2022,⁷⁴ it approved the Regulation on the way of organizing and conducting the public competition regarding the candidate selection for the position of the Chief Prosecutor of the specialized prosecutor's office. On 26.04.2022, the Regulation was amended, as a result of the change in the legal framework.

On the same date, 26.04.2022, the Superior Council of Prosecutors constituted the special Commission for the pre-selection⁷⁵ of candidates for the position of the Anticorruption Prosecutor's Office Chief Prosecutor, which on 10.05.2022 met in closed session, online format, to review candidate files against the eligibility criteria. Accordingly, following the examination of the files of the candidates for the position of the Chief Prosecutor of the Anticorruption Prosecutor's Office, three of the five candidates met the eligibility criteria, being promoted for the interview stage: Adrian Bordianu, Veronica Dragalin, Octavian Iachimovschi.

On 18.05.2022, by the Decision no. 4, the Special Pre-selection Commission confirmed the pre-selection of Mrs. Veronica Dragalin as a candidate in the competition for the position of the Chief Prosecutor of the Anticorruption Prosecutor's Office. On 07.06.2022, the Superior Council of Prosecutors appointed Mrs. Veronica Dragalin⁷⁶, who accumulated the highest final score, the winner of the public competition to select the candidate for the position of the Chief Prosecutor of the Anticorruption Prosecutor's Office, and on 16.06. 2022, the Acting General Prosecutor, Dumitru Robu, signed the respective order.

⁷² <https://moldova-leaks.com>

⁷³ Decision of the Superior Council of Prosecutors no. 1-25/2022

⁷⁴ Decision of the Superior Council of Prosecutors no.1-16/2022

⁷⁵ Decision of the Superior Council of Prosecutors no.1-79/2022

⁷⁶ Decision of the Superior Council of Prosecutors no.1-94/2022

4. ILLEGAL ENRICHMENT AND FINDING UNJUSTIFIED CHARACTER OF WEALTH

IV.1. Criminal cases for illicit enrichment initiated in 2022

The Anticorruption Prosecutor's Office initiated a record number of criminal cases on illicit enrichment in 2022. If 14 cases were started in 2021, in the first 10 months of 2022, 40 criminal cases were started for illicit enrichment. Only one of the 40 files was sent to court.

According to the APO data, the subjects of the investigations in **40 criminal cases** initiated on the basis of art. 3302 of the Criminal Code are as follows: ex-president of the Republic of Moldova; ex-minister; SIS ex-director; suspended Prosecutor General; 16 deputies/ex-deputies in 16 criminal cases; 3 judges in 3 criminal cases; 3 prosecutors in 3 criminal cases; 8 collaborators/ex-collaborators of the MIA in 8 criminal cases; 3 ex-employees of NAC in 3 criminal cases; employee of the Customs Service; 2 other subjects in 2 criminal cases.

To these, the cases of the former President of the Parliament, Andrian Candu, and of a former director of the State Fiscal Service are also added.

We remind you that art. 330 paragraph (2) of the Criminal Code, which establishes criminal liability for illicit enrichment, was contested at the Constitutional Court, with a total of 5 appeals being submitted during 2022. On 25.11.2022, **the appeals were declared inadmissible**⁷⁷, thus the legal provisions on illicit enrichment remained in force. The Court argued that “the crime of illicit enrichment can be a powerful tool for prosecuting corrupt officials, because it does not claim proof of the fact that the corruption transaction took place.” The CC also recalled that it had previously examined the provisions criminalizing illicit enrichment through the lens of the right to

respect the presumption of innocence and had not found a violation in this respect.

a. Persons holding high positions in the state targeted in cases of illicit enrichment

EX-PRESIDENT OF THE COUNTRY. The former president of the Republic of Moldova, **Igor Dodon**, is accused in the criminal case generically called “Kuliok”, including for illicit enrichment, passive corruption, illegal financing of the Socialist Party and treason, actions that would have taken place starting from 2014 until present, according to the Anticorruption Prosecutor's Office. The images with the black bag in which Igor Dodon appears together with the former leader of the Democratic Party, Vladimir Plahotniuc, and Serghei Iaralov, at the DPM headquarters are also being investigated. On May 24, 2022, the first searches were carried out as part of this investigation, and on October 6, the Prosecutor's Office announced that it had sent the “Kuliok” file to court, but only on two charges: passive corruption and organizing and accepting the financing of the political party from part of a criminal organization. Igor Dodon is accused of having demanded and accepted from Vladimir Plahotniuc and Serghei Iaralov the money in the amount of 600,000 to 1,000,000 US dollars, to pay the current expenses of the Socialist Party. The file is being examined by the Criminal Board of the Supreme Court of Justice, where several meetings were held, starting on October 17, 2022.

The episode regarding the illicit enrichment of the former president is still at the investigation stage, being under the management of the Anticorruption Prosecutor's Office, as well as the episode regarding the violation of the way of managing the financial means of political parties

⁷⁷ Decision of the Constitutional Court no. 159 of 24.11.2022 (file no. 50g/2022)

or electoral funds, and the episode regarding treason.

On December 2, 2022, the National Integrity Authority found⁷⁸ a violation of the legal regime of the declaration of wealth and personal interests by Igor Dodon. The integrity inspectors found “the existence of a substantial difference and the possession of wealth of an unjustified nature in the amount of 1 175 457 MDL for the fiscal years 2017, 2018, 2019, between the acquired wealth and the income obtained in the period 23.12.2016 - 19.02.2020 by Igor Dodon, ex-president of the Republic of Moldova and members of his family”. In the statement of findings, it is mentioned that the notifications made reference to the article in the Ziarul de Gardă newspaper regarding the luxury vacations of the former president, Igor Dodon⁷⁹. At the same time, NIA received several notifications regarding the verification of Igor Dodon’s assets, which were connected in a single control file.

SUSPENDED PROSECUTOR GENERAL. The suspended Prosecutor General, **Alexandr Stoianoglo**, is also accused of illicit enrichment and money laundering, actions allegedly committed between 2014-2015. On August 5, 2022, the Superior Council of Prosecutors gave its consent for the appointed prosecutor, Victor Furtună, to investigate the alleged crimes. According to Victor Furtună, Alexandr Stoianoglo would hold assets through third parties that substantially exceed the value of his legal income. In a post on his Facebook page, Alexandr Stoianoglo pointed out that the apartment, one of the subjects of the complaint, belongs to his daughter and was purchased in 2015. According to Stoianoglo, at that time he was neither a general prosecutor nor a deputy, not even an official, therefore, cannot be “the subject of this illegality”.

The respective apartment, with an area of 135 square meters, was seized, and Cristina Stoianoglo, the daughter of the suspended general prosecutor Alexandr Stoianoglo, filed a complaint in the civil court against the Anti-Corruption Prosecutor’s Office, at the end of

September 2022. According to the prosecutors, the building it is next to the apartment where the criminally investigated prosecutor lives, which he registered in the name of his eldest daughter, Cristina, and did not officially declare. The anti-corruption prosecutors claim that, in 2015, Cristina Stoianoglo was a student of 19 years old and did not have her own means to buy a home.

FORMER MINISTER OF THE INTERIOR. Another file for illicit enrichment initiated in 2022 concerns the former Minister of Internal Affairs and former deputy, **Alexandru Jizdan**. Prosecutors raided Alexandru Jizdan’s residence on June 29, after opening two criminal cases on his behalf for illicit enrichment and false public statements.

In May 2021, the National Integrity Authority established a difference⁸⁰ of 770,000 MDL between the incomes declared by Alexandru Jizdan and those obtained. According to NIA, he would have omitted to include information about salary income and nominal allowances totaling over 53,000 MDL, an accessory building in the Molovata village, Dubăsari district, two real estates and an apartment located in the Netherlands, owned by right of use by one of his children. NIA ordered the confiscation of unjustified assets in the amount of over 770,000 MDL and notified the General Prosecutor’s Office on the aspect of false declarations. On the other hand, Jizdan explained the admitted omissions by the fact that he did not have the necessary information at the time of completing the declaration, without presenting evidence in this regard, according to the integrity inspector.

Later, Alexandru Jizdan’s lawyers contested in court the order to start the criminal investigation, and on October 14, 2022, the Chisinau Court, Ciocana office, rejected the prosecutors’ order to start the criminal investigation for illicit enrichment in the name of the former minister.

FORMER PRESIDENT OF THE PARLIAMENT. The former president of the Parliament, **Andrian Candu**, was the subject of searches carried out by NAC officers and anti-corruption prosecutors, in a criminal case based on acts

⁷⁸ NIA Act of finding no. 340/16 of 2.12.2022

⁷⁹ Article in the Ziarul de Gardă newspaper from 16.01.2020 “Luxury vacations of the President”

⁸⁰ NIA finding document no. 106/04 of 22.04.2021

of illicit enrichment, on July 12, 2022. According to the NAC press release, the basis for initiating the criminal process was the notification of the National Integrity Authority, which carried out the control of the wealth and personal interests of the dignitary⁸¹ and found a violation of the legal regime of the declaration of wealth and personal interests.

According to the criminal investigation data, between January 2015 and July 2016, Andrian Candu would have obtained a share in a company and would have come into possession of unjustified financial means, in the amount of almost 800 thousand MDL. Also, between August 2016 and March 2020, the former president of the Parliament allegedly increased his wealth with financial means and real estate, using money from unjustified sources, in the amount of approximately 4.5 million MDL.

b. Judges and prosecutors targeted in cases of illicit enrichment

According to the data provided by the Anticorruption Prosecutor's Office, in 2022 criminal cases for illicit enrichment were initiated in the name of three judges. The magistrates concerned include: Tamara Chișcă-Doneva, Aureliu Postică and Valeriu Hudoba.

The interim President of the Supreme Court of Justice, **Tamara Chișca-Doneva** was suspended from her position on April 15, 2022, after being targeted in the criminal case initiated on the fact of illicit enrichment. Anti-corruption prosecutors suspected that, during the period 2014-2021, holding the position of judge, including administrative positions in courts, she would have substantially and unjustifiably increased her wealth. In October, however, the judge was removed from the criminal investigation. According to the prosecutors, the evidence administered and the results of the parallel financial investigation carried out by the Agency for the Recovery of Criminal Assets were not enough for the magistrate to be charged. It was also announced that the investigations will continue, and the prosecutors could return to accusations "in the event that new evidence will

be obtained, which was not known at the time of the removal from criminal prosecution".

On September 22, 2022, at the request of the former acting Prosecutor General, Dumitru Robu, the SCM gave its consent for the magistrate **Aureliu Postică**, from the Chisinau District Court, to be criminally investigated for illicit enrichment and falsification of public documents. The magistrate was also suspended from office. The judge is accused of understating, in his wealth declaration, the cost of his house and declaring incomes that do not correspond to reality, from the activity of his wife's two financial and accounting consultancy firms.

Also, at the request of the former acting Prosecutor General, Dumitru Robu, on April 20, 2022, the SCM gave its consent to conduct searches in a criminal case involving another judge. It is about **Valeriu Hudoba**, from the Comrat Court. The magistrate is suspected that, together with his family members, he would have obtained, in a short period of time, several assets, the value of which would substantially exceed the family's income. The NAC informed in a statement that there were suspicions that some of the goods and properties acquired by the judge would be managed both by some members of his family, as well as by interposed persons.

On August 3, 2022, the National Integrity Authority issued a declaration in the name of Valeriu Hudoba⁸², finding the lack of violation of the legal regime of the declaration of wealth and personal interests.

The data of the Anticorruption Prosecutor's Office also show that three prosecutors also became, in 2022, the subjects of investigations started for illicit enrichment. It is about the suspended Prosecutor General, Alexandr Stoianoglo, and state prosecutors Maxim Gropa and Remus Moroz.

The Chief Prosecutor of the Hîncești Prosecutor's Office, **Maxim Gropa**, was detained on Wednesday, February 16, 2022, for 72 hours in a case opened for illicit enrichment and false wealth declaration, after anti-corruption

⁸¹ NIA finding document no. 82/04 din 1.03.2022

⁸² NIA Act of ascertainment 310/27 of 3.08.2022

prosecutors searched his office. On March 24, he was suspended from his position, by the decision of the SCP, at the request of Dumitru Robu.

In another criminal case on illicit enrichment, on June 30, 2022, anti-corruption prosecutors searched the home, the car and a vacation home owned by Remus Moroz, former Chief Prosecutor of the Hîncești District Prosecutor's Office, later prosecutor in the Municipal Prosecutor's Office, Chisinau. On December 28, 2021, the National Integrity Authority initiated a control⁸³ over the assets of Remus Moroz, upon notification of the Security and Intelligence Service. According to the SIS notification, Remus Moroz and his ex-wife would be the beneficial owners of a Mercedes GLC 250 Coupe car, registered in the name of the ex-sister-in-law. At the same time, Rise Moldova⁸⁴ reported on how the prosecutor came into possession of an agricultural plot in Hîncești, where he built a construction, which he claims was a wine cellar.

c. Current and former MPs investigated for illicit enrichment

In cases of illicit enrichment initiated in 2022, thirteen former communist parliamentarians are also targeted, who in December 2015 left the parliamentary faction of the Communist Party of the Republic of Moldova, and later created a social-democratic platform, which joined then, shortly after, the Parliament, the Democratic Party.

Those targeted are **Violeta Ivanov, Artur Reșetnicov, Alexandru Banicov, Vladimir Vitiuc, Victor Mîndru, Sergiu Stati, Anatolie Gorilă, Petru Porcescu, Anatolie Zagorodnii, Galina Balmoș, Igor Vremea, Elena Gudumac, Corneliu Mihalache and Sergiu Sîrbu.**

Searches at the homes of the 13 were carried out on February 2, 2022. Five of them were then detained for 72 hours. It is about Violeta Ivanov, Artur Reșetnicov, Vladimir Vitiuc and Anatolie Zagorodnii and Sergiu Sîrbu. The Prosecutor's Office then announced that, according to the preliminary results of the investigations, the

expenses of the ex-deputies under investigation exceed their legitimate incomes by amounts between 350 thousand MDL and 4.6 million MDL. On February 21, four of the former deputies received suspect status. On March 30, the NAC announced that, together with the Agency for the Recovery of Criminal Assets, it seized assets worth a total of 6,920,053 MDL, which belong to ex-deputies targeted in criminal cases of illicit enrichment. It is about 5 immovable properties with a total value of 6,562,006 MDL, owned by 3 ex-deputies and cash in the total value of 358,047.08 MDL, seized as a result of searches carried out on 4 ex-deputies.

Two current deputies of the Bloc of Communists and Socialists from the current legislature were also accused of illicit enrichment. In April 2022, the socialist deputy Radu Mudreac was deprived of parliamentary immunity and was accused in a case of illicit enrichment. The criminal case was initiated after the National Integrity Authority found in⁸⁵ 2021 that Radu Mudreac did not declare more than 4.5 million MDL and violated the legal regime of declaring wealth and personal interests. The money would have been borrowed from various individuals, through a company founded by Radu Mudreac, in order to build a construction. The integrity inspector found, however, that the natural persons concerned did not officially have the financial means to borrow such sums.

On July 29, 2022, socialist deputy Corneliu Furculita was also charged with illicit enrichment, after being questioned by prosecutors. Corneliu Furculita was previously listed as the beneficial owner of the Exclusiv Media company, which holds the license for the Accent TV and Exclusiv TV television stations. Currently, the beneficial owner is Corneliu Furculita's wife, Ludmila Furculita, and the founder is a company also owned by her, Poliactiv LLC. The company also owns the Russian language periodical "Аргументы и Факты в Молдове". Exclusiv Media LLC is targeted in the so-called "Bahamas file". Through it, loans of hundreds of thousands of MDL were offered to several members and sympathizers of the PSRM who, later, made

⁸³ NIA report of control initiation no. 1286/21 of 28.12.2021

⁸⁴ Rise Moldova article from 26.08.2022 "Real estate deals in Hincesti: the chiefs' neighborhood (II)"

⁸⁵ NIA Act of finding no. 67/17 of 15.03.2021

donations to the electoral campaign of Igor Dodon, in the 2016 presidential elections.

In 2020, Ziarul de Gardă newspaper⁸⁶ discovered an undeclared house of Corneliu Furculita, who later included it in the declaration of assets.

IV.2. Criminal cases for illicit enrichment sent to trial in 2022

SIS FORMER DIRECTOR. Only one case initiated in 2022 was sent to trial this year. It is about the case in which **Vasile Botnari** is targeted – former director of the Security and Intelligence Service, former deputy and minister. The case, in which his mother-in-law, Efrosinia Cucoară, also appears as an accomplice, was sent to the court on September 30, 2022. Searches in this file were carried out on March 29, 2022, at four buildings and a car. According to the prosecutors, the SIS ex-director is suspected that, during the years 2014-2019, holding several positions of public dignity, with the aim of hiding his unjustified income, he would have procured movable and immovable goods through intermediaries and would have registered the right of ownership in the name of relatives or trusted persons.

“For example, during the period 2014-2019, the mother-in-law, being a pensioner, had income of only approximately 329,000 MDL in total and during the same period she accumulated real estate with a total value of over 19 million MDL. The daughter, having no income during that period, obtained an apartment, parking space and a car with a total value of over 5.9 million MDL. According to the administered evidence, after the start of the criminal investigation, immovable property with a total value of more than 24.5 million MDL, as well as owned cars worth more than 4 million MDL, were identified. Therefore, with the authorization of the investigating judge, the anti-corruption prosecutors applied security measures in the form of seizure of these assets, for the purpose of possible special confiscation”, announced officials from the ACP. In total, the seizure was applied to goods with a total value of over 28 million MDL.

The file is at the Chisinau Court, where several

hearings were postponed and interrupted.

FORMER PRESIDENT OF THE SUPREME COURT OF JUSTICE. And the case of illicit enrichment involving the former president of the Supreme Court of Justice, **Ion Druță**, was sent to the court on July 27, 2022. The criminal prosecution of this case started yet in 2019, and since then, a certain period, some actions have stagnated for various reasons, as shown in a press release from the Prosecutor’s Office.

Ion Druță is accused of having, between 2014 and 2019, while he held the position of president of the Supreme Court of Justice and judge of the same court, obtained a series of movable and immovable goods, from monetary means whose provenance cannot be justified. Between 2014-2019, when the former magistrate held the position of judge at the Supreme Court of Justice, through his relatives he would have obtained ownership of immovable property, with a total value of over 4.5 million MDL, and the prosecutors estimated that the average price of their sale would be over 12.7 million MDL, while the judge’s income was 830 thousand MDL, and his wife’s – 608 thousand MDL. 5 non-residential premises, 2 residential premises and a car were seized, with a total value of 12,796,510 MDL.

The file is being examined at the Chisinau Court, where two hearings were announced, both of which were interrupted.

FORMER DEPUTY OF THE SUSPENDED PROSECUTOR GENERAL. And the file of **Ruslan Popov**, the former deputy of suspended prosecutor general, investigated for illicit enrichment, was sent to court in 2022, on June 21. Several of his accomplices are also targeted in the file: his wife – Iulia Popov, his father – Alexandru Popov, his mother-in-law – Pelagiya Oprya, and the businessman Calinici Igor. The criminal case was sent to the Chisinau Court, for substantive examination. The first meeting was scheduled for July 15, 2022. Since then, two meetings have taken place, and several have been postponed or canceled. Ruslan Popov requested the transfer of the criminal case trial to another court of equal rank, but the Supreme Court of Justice rejected his request⁸⁷.

⁸⁶ Article in the Ziarul de Gardă newspaper of 16.07.2020 ” The unfinished and undeclared three-level house where we found the leader of the Socialists in Parliament”

⁸⁷ Conclusion of the Supreme Court of Justice from 14.11.2022

The former prosecutor is accused of the fact that, being a person with a position of public dignity, acting in complicity with his relatives, as well as the administrator of a private company during the years 2014-2019, together with the families affiliated to it, obtained financial means in the amount of more than 7.7 million MDL, while the total amount of their expenses in the same period was 11 million MDL, thus a total difference of 3.2 million MDL between his incomes and expenses was found.

The former prosecutor is accused of owning and owning personally, as well as through his close relatives, assets whose value substantially exceeds the means obtained and it was established based on the evidence that they could not have been obtained legally.

IV.3. Finding the unjustified nature of the wealth

On the website of the National Integrity Authority, 46 findings regarding the violation of the regime of declaration of assets and personal interests, issued in 2022 (situation on 8.12.2022), were published. Most of those targeted in the NIA's findings are local officials and those elected – 14, followed by employees of the MIA structures – 9. On the third place are deputies and former deputies – with 5 findings, on the fourth – former and current judges and prosecutors – targeted in each of 4 findings. Three documents refer to employees of the Customs Service, two – to employees of the National Penitentiary Administration. Four acts target other categories of subjects of the statement, and one – a former RM president.

Of these, in 13 cases substantial or obvious differences were found between the wealth of the subjects of the declaration and their legal income. The dignitaries concerned are as follows:

- Igor Dodon, ex-President of the Republic of Moldova – substantial difference of 1,175,457 MDL
- Leonid Bogatu, senior non-commissioned officer within the National Public Security Inspectorate of the GPI of the Ministry of Internal Affairs – substantial difference of 269,412 MDL
- Vlad Batrîncea, former vice-president of the Parliament of the Republic of Moldova – unjustified substantial difference of 713,924 MDL
- Oleg Baciuc, deputy chief prosecutor of the Prosecutor's Office for Combating Organized Crime and Special Cases – substantial difference of 412,749 MDL
- Vladislav Guzic, chief prosecutor of the Ștefan Vodă District Prosecutor's Office – substantial difference of 265,814 MDL
- Vasile Muștuc, specialist in the regulation of land ownership within the Ghidighici village Town Hall – substantial difference of 658,195 MDL
- Mariana Pitic, judge at the Supreme Court of Justice – obviously unjustified difference of 677,798 MDL
- Alexandru Jolnaci, ex-deputy in the Parliament of the Republic of Moldova – substantial difference and unjustified possession of wealth of 459,688 MDL
- Denislav Mașaeu, civil servant with special status within the General Inspectorate for Emergency Situations – substantial difference of 189,779 MDL
- Andrian Candu, ex-deputy and ex-president of the Parliament of the Republic of Moldova – obvious difference of 792,609 MDL and substantial difference of 4,355,764 MDL, which is classified as unjustified wealth.
- Svetlana Zatic, ex-vice-president of the Anenii Noi district, ex-councilor in the district Council, director of Kindergarten no. 3, Anenii Noi – substantial difference of 166,070 MDL, the unjustified character is found.
- Veaceslav Pînzaru, former chief inspector of the arrears management department no. 4 within the State Fiscal Service – substantial difference of 408,580 MDL.
- Vladimir Vitiuc, ex-deputy in the Parliament of the Republic of Moldova – obvious difference of 2,268,248 MDL, substantial difference of 679,411, which is found to be unjustified.

5. GRAND CORRUPTION CASES

V.1. Abundance and evolution of grand corruption cases in 2022

2022: Many files, most of them at the criminal investigation stage. Only a few prosecuted. Zero convictions

In 2022, as well as in 2021, dozens of criminal cases targeting so-called “grand corruption” were opened, targeting high-ranking officials. Most of those who ended up being investigated for acts of corruption are the persons who, at the time of the initiation of the criminal cases, no longer were in high state positions. At the same time, most of the open criminal files are still in the criminal investigation phase, only a few of them have been sent to court.

■ January 2022

January 4, 2022 – new charges against Vladimir Plahotniuc. The Anticorruption Prosecutor’s Office informs the public opinion that it has informed the lawyers of the indictment order, with the completion of the accusation, against Vladimir Plahotniuc, in the generically named “Bank Fraud” file.

Vladimir Plahotniuc was accused of a new episode related to “Bank Fraud”, being charged with three charges, as follows: Creation and management of a criminal organization (art. 284 of the Criminal Code), Fraud committed in particularly large proportions (art. 190 paragraph (5) of the Criminal Code) and Money laundering committed by a criminal organization, in particularly large proportions (art. 243 paragraph (3) of the Criminal Code).

The Prosecutor’s Office announced that **“the new episode incriminated against Vladimir Plahotniuc refers to the period 24.11.2014 - 29.06.2015, when he, acting as the leader of the criminal organization, being the**

effective beneficiary and manager, through intermediaries of several non-resident companies, received in the accounts, through the resident companies founded by Ilan Șor, through interposed persons, financial means in the amount of 21 million USD, which had as their origin bank credits fraudulently obtained from BC “Banca de Economii” SA.”.

Vladimir Plahotniuc left the Republic of Moldova in June 2019 and since then he could not be found by law enforcement agencies to be questioned. In November, after the legislation was amended in advance, **“the Chisinau Municipal Court Ciocana admitted the procedure regarding the authorization of the completion of the criminal investigation in the absence of the accused Vladimir Plahotniuc in the “Bank Fraud” file.** If the decision of the court remains final, the criminal file against him will be submitted for examination in court. Plahotniuc’s name also appears in other criminal files, most of which are in the criminal prosecution phase.

January 27, 2022 – the criminal case, after which the NIA president resigned. The APO informs about the raid search carried out at Rodica Antoci, the president of the National Integrity Authority and at an employee of the institution, in a criminal case initiated according to the reasonable suspicion of committing the crime of exceeding the service duties, provided for by art. 328 paragraph (3) letter b) from the Criminal Code. The two were suspected of the fact that, exceeding their duties, they caused damage to the public institution in the total amount of 126.57 thousand MDL.

In one case, the president of NIA and the employee of the institution are being investigated because they allegedly paid services worth 29.57 thousand MDL for car painting works, although the contract concluded between NIA and the economic agent did not include such services.

In another case, the persons are investigated because, acting contrary to their duties, shortly after the repair and installation of the doors in the NIA building was carried out by a contracted economic agent, for the reason that they did not like the characteristics of those doors, they, contrary to the legal provisions, contracted another economic agent from whom bought another 7 doors worth 97 thousand MDL.

At the beginning of February, the prosecutors submitted the accusation against her. On March 18, Antoci was provisionally suspended from her position after the Integrity Council accepted the action of the anti-corruption prosecutors. On March 31, 2022, Rodica Antoci submitted her resignation from the position of NIA president, starting on April 1.

In December 2022, the criminal case had not yet been sent to court, nor dismissed.

■ February 2022

February 4, 2022 – criminal case against Stoianoglo for the expulsion of Turkish teachers, started, then closed. The APO announced that it has started criminal investigation regarding the suspended Prosecutor General, Alexandr Stoianoglo, in the case generically called: “Expulsion of Turkish teachers”. Stoianoglo was suspected of the fact of interference in the administration of justice, with the use of the service situation (crime provided by art. 303 paragraph (3) of the Criminal Code). On July 6, 2022, the General Prosecutor’s Office announced, however, that the criminal case was dismissed on the grounds that “the act imputed to him does not meet the constitutive elements of the crime.”⁸⁸

February 15, 2022 – the file of the head of department at the Oncological Institute, sent to court. Virgiliu Urechi, the head of the radiology department of the Oncological Institute, was detained by the NAC and the anti-corruption prosecutors after allegedly claiming 2,000 euros to ensure the admission of a cancer patient and to hasten the start of oncological treatment.

In June 2022, his file was sent to court. The APO announced that the official was accused of “committing five episodes of passive corruption, manifested by claiming and personally accepting assets that do not belong to him, in order to fulfill and hasten the fulfillment of an action in the exercise of his position, actions committed by extorting goods”. In December 2022, the case was in the first instance. The judges released Virgiliu Urechi from custody and applied the preventive measure “under judicial control”, and several court hearings were postponed until 2023.

February 21, 2022 – the file of four ex-deputies, investigated for active corruption. The APO informed the public opinion that, in addition to the accusations of illicit enrichment, on February 18, 2022, the criminal investigation was additionally initiated regarding four ex-deputies in the Parliament of the Republic of Moldova, suspected of corrupting their colleagues in order to induce them to leave the parliamentary faction of which they were a part (crime provided for by art. 325 par. (3) of the Criminal Code).

The four ex-deputies were suspected that, between November 2015 and December 21, 2015, being elected on the lists of a parliamentary party, acting through prior understanding, on behalf of another parliamentary party, they promised and gave some deputies, who held mandates deputy in the Parliament of the Republic of Moldova, monetary means in foreign currency in amounts ranging from 200 to 300 thousand euros, for each deputy, which is the equivalent of the amount from 4.3 million MDL to 6.45 million MDL, according to the average official rate established by the National Bank of Moldova for that date, so that they could leave the parliamentary faction of which they were a part and in their capacity as a deputy to vote on the draft laws submitted by the ruling party of that period. As a result of the corruption actions, on December 21, 2015, the deputies, to whom the funds were sent, publicly announced that they had left the parliamentary faction of which they were a part.

According to the sources of the “Ziarul de Gardă” newspaper, the four ex-deputies targeted in

⁸⁸ Anticorruption Prosecutor’s Office press release of 07/06/2022

this case are Violeta Ivanov, Artur Reșetnicov, Vladimir Vitiuc and Anatolie Zagorodnii. As of December 2022, the criminal case was still at the prosecution stage.

■ April 2022

April 4, 2022 – the president of Cahul district, dismissed after being detained in a corruption case. Marcel Cenușa, the president of Cahul district, representative of the Socialist Party of the Republic of Moldova, and three employees of the Council, together with the mayor of Moscovei commune from Cahul district, and four administrators of some private companies, were detained for acts of abuse of office and embezzlement of foreign assets, committed in particularly large proportions, passive corruption and active corruption.

According to the prosecutors, they were accused of damaging the district budget by more than 1 million MDL following fraudulent purchases. According to the materials of the criminal cases, the accused would have signed contracts in advance for the repair and maintenance of some public objects, favoring economic agents, who they would have managed from the shadows.

At the beginning of May, Marcel Cenușa was released from custody and placed under judicial control. On May 16, he was dismissed from the position of district president. Nicolae Dunas was elected in his place, who reached the Council on the lists of the Action and Solidarity Party, the governing party. At the beginning of December, Marcel Cenușa was elected as president of the Cahul territorial organization of the Socialist Party of Cahul.⁸⁹ In December 2022, the criminal case against him was still at the stage of criminal investigation.

■ May 2022

May 3, 2022 – the criminal case regarding the purchase of blankets for passports with damages of over 817 million MDL. 60 searches were carried out by anti-corruption prosecutors, at several locations, in the file of passport blankets. According to anti-corruption prosecutors,

following the raids on May 3, a total of 13 persons, including former and current employees of the Public Services Agency (PAS), were detained, questioned and placed in provisional detention in the NAC detention center and in the provisional detention center of the Capital Police Directorate.

According to the APO, the criminal investigation on this case was started on October 22, 2021 by the General Prosecutor's Office, on the fact of abuse of office, committed for material interest (art. 327 paragraph (2) of the Criminal Code), by the decision-makers from within the Public Services Agency.

Later, on April 5, 2022, the APO started another criminal case on the fact of abuse of office, committed in the interest of an organized criminal group (art. 327 paragraph (3) of the Criminal Code). These criminal cases were connected in a single procedure.

They are suspected of having unjustifiably increased the quantity and amount of the contract for the purchase of blankets with personalization technologies for identity documents from the national system of passports, driving licenses and registration certificates, a fact that harmed the interests of Î.S. "CRIS REGISTRU" and later PSA, with a total amount of approximately 26 million euros, the equivalent of over 500 million MDL, money from which an organized criminal group benefited.

In September, four fugures from the criminal case generically named "the purchase of blankets for passports" obtained preventive arrest warrants, the APO announced: the former head of the DPM, Vladimir Plahotniuc, the businessman Alexandru Vîlcu, the former director of the PSA, Vladimir Zara and the former deputy of the Democratic Party, Eugeniu Nichiforciuc, about whom the press wrote that they were the final beneficiaries of the money.

"Considering the non-appearance of the previously cited persons to be recognized and heard as suspects/accused, the anti-corruption prosecutors have undertaken the necessary measures provided by the legislation for such procedures", the APO announced.

⁸⁹ PSRM press release of 5.12.2022

In November 2022, the APO informed that regarding nine persons concerned in this file, including a former institution head and its employees, the criminal investigation was completed, and the separate criminal case regarding them was sent with an indictment to the court of judgment. In regard to two of these persons, the preventive measure of provisional release under judicial control is applied, and in regard to 7 persons, the preventive measure of the obligation not to leave the country was applied.

The damage caused as a result of the crime is more than 817 million MDL, in this sense, 38 immovable assets have been seized, the prosecutors announced.

May 6, 2022 – the files of Vladimir Andronachi.

Prosecutors from the Prosecutor's Office for Combating Organized Crime and Special Cases, jointly with the officers of the National Investigation Inspectorate, carried out searches in the case of the attempt to dispossess the state of the headquarters of the Consulate of Moldova in the city of Odesa in Ukraine.

The legal authorities announced that searches took place in several locations in Chisinau, including Pavel Filip, the former Prime Minister of the Republic of Moldova, a former consul of Moldova in Odesa and a person from the entourage of the "Andronachi Group." Law enforcement officials seized communication devices, storage media, documents, stamps and draft documents.

In November 2022, after Vladimir Andronachi was detained in Ukraine and expelled to the Republic of Moldova⁹⁰, he was informed of the accusation "for the role of leader" of the attempt to dispossess the property where the Consulate of the Republic of Moldova in Odesa is based, announced POCO CSC. "More precisely, he is accused by POCO CSC prosecutors of the fact that he exercised the role of leader in the attempt to dispossess Moldova of the real estate located in Odessa, Ukraine, under the administration of the Ministry of Foreign Affairs and European Integration, where the headquarters of the

Moldovan consulate is located. The investigated crime would have been carried out with the participation of other persons, including public officials – members of an organized criminal group," the statement published by the Prosecutor's Office states.

According to the state prosecutors, in November 2022, there were six accused in the investigated file, who at that stage of the investigations "prevail on the presumption of innocence, according to the law".

Regarding Vladimir Andronachi, other criminal files exist, some at the stage of criminal investigation, others sent to the court. At the beginning of December, Andronachi was in preventive detention in the NAC pre-trial detention center.

May 10, 2022 – the file of the former president of the Chisinau Court.

Radu Țurcanu, the former president of the Chisinau Court, regarding whom the Superior Council of the Magistracy issued the agreement to start the criminal investigation, is being investigated for the crime of abuse of office.

Radu Țurcanu is suspected that, during the year 2020, when he held the position of president of the Chisinau Court, he would have redistributed to other persons than those included in the list approved by the SCM, money allocated as a single allowance to the employees of the Chisinau Court, who contacted the infection COVID-19 during the performance of duties. On May 10, the SCM plenary issued the agreement regarding the initiation of the criminal investigation regarding the judge Radu Țurcanu, at the request of the acting Prosecutor General, Dumitru Robu.

As of December 2022, the criminal case was still at the prosecution stage.

May 24, 2022 – "Kuliok" file.

The anti-corruption prosecutors, jointly and with the support of NAC and SIS officers, raided several addresses in the criminal case generically called "Kuliok", targeting Igor Dodon, the former president of the Republic of Moldova. In total, 10 buildings and 3 cars were searched, and Igor Dodon was detained for 72

⁹⁰ Article of the "Ziarul de Gardă" newspaper from 3.11.2022 "Former democratic deputy Vladimir Andronachi was placed in the NCA detention center. Details from the Anticorruption Prosecutor's Office"

hours. The criminal prosecution in this file was resumed after the Chisinau Court of Appeal decided, on May 17, to annul in full the decision of the Chisinau Court, Ciocana sector, regarding the maintenance of the order not to initiate the criminal prosecution against the former president of the Republic of Moldova, as well as the annulment of the same order.

As part of the investigation, in addition to facts regarding illicit enrichment, facts were also investigated regarding passive corruption, illegal financing of the PSRM and treason, which took place starting from 2014 until 2022, including the events that were targeted in the video images published in the media and social networks in 2019, in which Igor Dodon takes a black bag from Vladimir Plahotniuc and Serghei Iaralov.

On May 26, Igor Dodon was released from pre-trial detention center and placed under house arrest. In November 2022, Igor Dodon was released from house arrest, being placed under judicial control, with the obligation not to leave the country.

The “Kuliok” file was sent to court in October, and it was sent for examination, according to its jurisdiction, to the Supreme Court of Justice. Meanwhile, during the months of October, November and December, several hearings were held at the SCJ in this case. Igor Dodon pleads not guilty.

May 26, 2022 – Ilan Șor, left without immunity in a new criminal case. Deputy Ilan Șor was left without parliamentary immunity. On May 26, the Parliament approved the two requests submitted by the acting Prosecutor General, Dumitru Robu, regarding the approval of lifting the parliamentary immunity of the ȘOR Party deputy, Ilan Șor, in order to detain him, arrest, conduct searches and send to court.

The acting Prosecutor General announced that Ilan Șor figured in a new criminal case, being suspected of money laundering in particularly large proportions. The criminal case is still at the criminal investigation stage. Ilan Șor has another file that has been examined for several years at the Chisinau Court of Appeal, he was sentenced

in the first instance to seven and a half years in prison in the case of bank fraud.

■ June 2022

June 16, 2022 – the former director of PPA, criminally investigated for abuse of office. Vladimir Baldovici, ex-director general of the Public Property Agency was charged with abuse of office and forgery in public documents. According to APO, Vladimir Baldovici, between October 2018 and January 2019, abusing his functional duties, together with an interim administrator of an agricultural company, initiated the process of scrapping some fixed assets of the company targeted in the institution’s investigation. As of December 8, 2022, the criminal case had not yet been sent to court or closed.

■ July 2022

July 13, 2022 – NPI director – investigated for abuse of office. The APO announced that Andrei Iavorschi, director of the National Probation Inspectorate, was charged with the crime of abuse of office, resulting in considerable damages (art. 327 para. (1) of the Criminal Code).

He was accused by the prosecutors that, by virtue of his position as director, having the obligation to ensure the efficient use of the financial resources of NPI, contrary to the legal provisions, during the years 2019-2022, he concluded on behalf of the institution, several contracts regarding the purchase of goods and services of low value, without them being planned, in a total amount of 676,259.14 MDL.⁹¹ He pleads not guilty. His case has not yet been sent to court.

July 21, 2022 – the file of the illegal financing of the Șor Party. The anti-corruption prosecutors together with the NAC officers raided several locations in a criminal case on the illegal financing of the ȘOR Political Party.

ȘOR Political Party MP, Marina Tauber, was left without parliamentary immunity on July 21, and on July 23 she was placed in custody for a period of 30 days, being suspected in the file regarding

⁹¹ The article in the newspaper “ Ziarul de Gardă” of 15.07.2022 “The Director of the National Probation Inspectorate, Andrei Iavorschi, accused of abuse of office, was suspended from his position - the Minister of Justice”

the illegal financing of the ȘOR Party⁹². Later, Tauber was released from prison and transferred to house arrest. On December 6, CA Chisinau maintained the decision of the first instance, by which Tauber was placed under house arrest for 20 days.⁹³

In July, CNA reported that the ȘOR Political Party would have consciously accepted money of dubious origin, from a “criminal group”, which was used in the interest of the party, such as fees for artists, salaries for members and the organization of protests. According to the NAC, the money of the “criminal group” arrived in the Republic of Moldova in the form of transfers and conversions, including in cryptocurrency, and, to camouflage the origin of the financial means, various financing channels such as Dubai, Vienna, Monaco were used.

“Thus, several episodes were documented, where, in the first semester of the current year, the party allegedly made payments in the amount of 600,000 euros, while the reported expenses were a little over 228,000 MDL. From the same sources of criminal provenance, monthly salaries of 100,000 euros would have been paid to party members, and over 3.5 million MDL would have been used to transport participants to the protests in the Great National Assembly Square,” announced the bodies of the right in July. Later, the searches in the file of the illegal financing of the ȘOR Party took place in the months of August⁹⁴, September⁹⁵ or October⁹⁶. In December 2022, the criminal case was still at the criminal investigation stage, with several people having the status of suspect or accused.

July 21, 2022 - criminal file on the name of former deputy Eugeniu Nichiforciuc. Ex-deputy Eugeniu Nichiforciuc was accused of corruption: he was accused of promising a female deputy 350 thousand euros to leave the PCRM, in order to later vote on the bills submitted by the DPM.

According to the evidence administered by the prosecutors, it was found that the former deputy, between May and July 2016, while he was in the meeting room of the RM Parliament, personally on behalf of the Democratic Party promised a deputy from the RM Parliament, foreign currency in the amount of 350 thousand euros, which is the equivalent of 7.77 million MDL for the latter to leave the Faction of the Communist Party of the Republic of Moldova in the Parliament and in her capacity as a deputy to vote on the draft laws submitted by the Democratic Party, prosecutors announce. The former deputy who filed a complaint in this case, Elena Bodnarenco, died in July 2022. In December 2022, the criminal case against Nichiforciuc had not yet been sent to court or dismissed.

■ August 2022

August 15, 2022 – criminal case involving a former CAA director and a former mayor of the capital. Eugeniu Coștei, a former director of the Civil Aviation Authority was detained by NAC and prosecutors in a money laundering case. The CAA former head, who worked until January 2021 within the Authority, is suspected of having committed the crime of money laundering in particularly large proportions, together with other former employees of the aeronautical entity, but also with Silvia Radu, the former mayor of the Capital. Eugeniu Coștei and Silvia Radu plead not guilty. The case is still at the prosecution stage.

■ September 2022

September 8, 2022 – criminal case involving a former deputy of the PSRM. Anti-corruption prosecutors raided the home of former deputy of the Bloc of Communists and Socialists (BCS), MP Alla Dolința.

On December 7, the prosecutors announced that Alla Dolința is accused of “acting within the organized criminal group “Dodon”, during

⁹² The article in the newspaper “ Ziarul de Gardă” of 23.07.2022 “Marina Tauber – in custody for 30 days. She will be detained in Penitentiary No. 13

⁹³ The article in the newspaper “ Ziarul de Gardă” of 6.12.2022 “The magistrates of the Chisinau Court of Appeal have extended the house arrest for another 20 days regarding the MP of the “Sor” Party Marina Tauber”

⁹⁴ Communiqué of the Anticorruption Prosecutor’s Office of 12.08.2022

⁹⁵ Communiqué of the Anticorruption Prosecutor’s Office of 2.09.2022

⁹⁶ Communiqué of the Anticorruption Prosecutor’s Office of 20.10.2022

the years 2018 - 2020, in complicity with the former president, Igor Dodon and with PSRM members Zinaida Greceanii, Corneliu Furculita, Vlad Batrincea, Olga Rața and other persons, committed complicity in knowingly accepting the financing of the PSRM political party from the "Plahotniuc" criminal organization.

Also, the ex-parliamentarian is accused of falsifying official documents, complicity in falsifying reports on the financial management of the PSRM for the years 2018 and 2019, and money laundering by an organized criminal group.

In mid-July, the Parliament approved the resignation request submitted by deputy Alla Dolința. The socialist submitted her resignation on July 11, for the reason that she does not agree and does not support "the rhetoric of both the leadership and the party as a whole" regarding the war in Ukraine. In her resignation letter, Dolința mentioned that she is renouncing her mandate as deputy and withdrawing from the PSRM.

■ November 2022

November 3, 2022 – criminal case against a former district president. The former president of the Anenii Noi district, Serghei Rapcea, was detained by NAC officers and anti-corruption prosecutors in an influence traffic file. He is suspected of having organized the rigging of some auctions in his own interest, NAC announces.

According to the case materials, in the period 2018-2019, Serghei Rapcea, being in the position of president of the district and exercising influence over some subordinates, would have initiated public tenders for constructions and repairs in some public institutions.

"Following a personal goal and being in a conflict of interests, the former president of Anenii Noi district would have favored a series of companies and economic agents, whose effective beneficiary is, without ensuring competition, the equal and non-discriminatory treatment of the other participants in tenders", it is stated in a NAC press release. As of December 2022, the criminal case was still at the prosecution stage.

6. RECOVERY OF CRIMINAL ASSETS

VI.1. Arrears and difficulties in recovering criminal assets

The recovery of criminal assets is a subject of public interest in the Republic of Moldova, in particular, due to the monitoring of the evolution of the generically named “Bank Fraud” file. In 2022, “Ziarul de Gardă” newspaper carries out a journalistic investigation⁹⁷ about the activity of the Agency for the Recovery of Criminal Assets and the results recorded by it. According to the investigation, the effectiveness of CARA cannot be measured only by the seizures of tens of millions of MDL placed on assets. It is necessary to see the percentage of assets recovered from those seized. According to the “Ziarul de Gardă” newspaper, less than 1% of the value of the total seizures ended up being capitalized and sent to the state budget.

The National Anticorruption Center presents weekly updated information on the value of assets seized by the Agency for the Recovery of Criminal Assets. Less often, information is presented about the goods recovered – that is, confiscated, traded and the income transferred to the state budget. In the press release of September 29, 2022⁹⁸, the head of the Agency indicates the value of 6.2 billion MDL of seized goods, of which about 0.5 billion are outside the country’s borders, as well as the value of the recovered goods of 33 million MDL, which are financial goods or assets. **Respectively, the percentage of seized assets constitutes 0.5%.**

For comparison, Europol statistics estimate that 2% of the total criminal proceeds are frozen and 1% – confiscated⁹⁹, respectively, 50% represents the share of capitalization from the total seizures. This comparison confirms the extremely low indicator of seized assets recovery in the Republic of Moldova. This state of affairs must be changed, requiring consolidated efforts, research and solutions from the responsible authorities, experts and other stakeholders.

The “Recovery of assets from corruption in Moldova: Regulation and Process” study¹⁰⁰, carried out by CAPC in partnership with the Private Institution for Financial Integrity (Integral) maps the field of recovery of assets coming from corruption. In the study, the normative and procedural gaps in the application of the national normative framework are identified and a series of proposals are formulated, including the responsibility of CARA for the entire process of criminal assets recovery.

Report no. 2 “Breaking the vicious circle”¹⁰¹, developed by the Independent Anti-Corruption Advisory Committee, which presents a list of detailed recommendations that directly relate to the Criminal Assets Recovery Agency and its mandate to recover criminal assets.

Similarly, the **Needs Assessment Report of the Criminal Assets Recovery Agency**¹⁰², developed by the Soros Moldova Foundation, assesses the needs of CARA within the asset recovery system,

⁹⁷ Investigations “Seizures of billions vs confiscations of less than 1%.” How we found out, for five months, how much money (doesn’t) reach the state budget, after the seizures announced by CARA”, Ziarul de Gardă. May, 6, 2022

⁹⁸ NAC/CARA press release of 29.09.2022

⁹⁹ Report from the commission to the European Parliament and the Council “Asset recovery and confiscation: Ensuring that crime does not pay”, 2.06.2020

¹⁰⁰ Asset Recovery from Corruption in Moldova: Regulation and Process. Cerbu, S., Paladii A., Catan C., edit. Enicov V., CAPC, Integral. Chisinau. 2022. Accessible at: <https://www.capc.md/studii/studiul-reglementarea-si-procesul-recuperarii-activelor-din-coruptie-moldova/>

¹⁰¹ The “Breaking the vicious circle” report, ACAC, 2021

¹⁰² The Needs Assessment report of the Criminal Assets Recovery Agency of the Republic of Moldova, Soros, 2022

identifies the strengths of CARA and highlights the opportunities to increase its effectiveness. The report proposes a Roadmap and an Action Plan, divided into short, medium and long term actions.

VI.2. Legislative efforts to improve the mechanism of criminal assets recovery

As already mentioned in this report, on July 21, 2022, the **Law no. 190/2022** was adopted¹⁰³, which amended Article 106¹ of the Criminal Code regarding extended confiscation and also amended the provisions of the Criminal Procedure Code and the Enforcement Code.

Also on July 21, 2022, the **Law no. 223/2022** was adopted¹⁰⁴, which amended the Code of Criminal Procedure and the Law on the Criminal Assets Recovery Agency. In the Code of Criminal Procedure, the notion of parallel financial investigations was modified, by completing it with the phrase “civilly responsible party” and by developing the notion of “effective beneficiary”. At the same time, a new article was introduced in the code – 2072 – regarding the mechanism of seized assets capitalization. The Law regarding the CARA has been amended in the part relating to the issuance of freezing and termination orders. In particular, the term of the freezing

order was increased from 15 days to 30 working days and the cancellation of the freezing when the grounds disappear or the effect ceases with the application of the insurance measures. Likewise, the law was supplemented with CARA’s competence in international cooperation for the detection of unjustified wealth.

CAPC **assessed**¹⁰⁵ positively the draft law on the improvement of the criminal assets recovery system (becomes Law no. 223/2022) at the stage of public consultations organized by the Ministry of Justice.

On November 4, 2022, the **National Anticorruption Center presented the project of the National Program for the Recovery of Criminal Assets**¹⁰⁶, developed by a working group of national and international experts in partnership with the Soros Moldova Foundation. The stated purpose of the program is to streamline the recovery of criminal assets. It sets two general objectives: strengthening the national criminal asset recovery system and increasing transparency, expertise and integrity in the recovery process. On November 23, 2022, the Program was registered in Parliament as a legislative initiative of a group of deputies¹⁰⁷, being adopted in mid-December of 2022.

¹⁰³ The Law for the amendment of some normative acts no.190 of 21.07.2022

¹⁰⁴ The Law for the amendment of some normative acts no. 223 of 21.07.2022

¹⁰⁵ CAPC’s opinion regarding the draft Law for the amendment of some normative acts (improving the system for the recovery of criminal assets)

¹⁰⁶ Project of the National Program for the Recovery of Criminal Assets, NAC

¹⁰⁷ The draft decision regarding the approval of the National Program for the recovery of criminal assets for the years 2023-2027 and the Action Plan regarding the implementation of the National Program for the recovery of criminal assets for the years 2023-2027, registered with no. 426 of 23.11.2022

7. INSTITUTION OF INTEGRITY WARNINGS AND PROTECTION MECHANISMS

VII.1. Normative and institutional framework, whistleblower cases registered and investigated in 2022

Disclosure of illegal practices (integrity alerts) is one of the most effective mechanisms for reporting corruption by employees in the public and private sectors. Currently, this mechanism is regulated by the Whistleblower Law no. 122/2018¹⁰⁸ and the Regulation on internal examination and reporting procedures for disclosures of illegal practices¹⁰⁹,

The authorities responsible for **examining disclosures of illegal practices** are as follows:

- Employers (public or private sector), in case of disclosures of illegal internal practices
- The National Anticorruption Center, in case of disclosures of external/public illegal practices

The authorities responsible for the protection of whistleblowers are as follows:

- Employers, in the case of internal disclosures
- The Office of the Ombudsman (OAP) in case of external and public disclosures

In the Republic of Moldova there is no distinguished authority responsible for the supervision, monitoring and collection of data regarding the number of cases registered and examined, as well as the number of protection cases granted to whistleblowers by employers in the public and private sectors. Consequently, there is no statistic on the applicability of the integrity warning mechanism in case of disclosures of illegal internal practices.

Based on the information available and the analyzes carried out in the field, the mechanism of integrity warnings is not fully used and applied in the Republic of Moldova by both employers and employees. According to the Evaluation Report¹¹⁰ on the effectiveness of complaint mechanisms regarding corruption in the public sector of the Republic of Moldova, developed by CAPC, the authorities, as employers, did not create satisfactory conditions for the effective implementation of the integrity warning mechanism. In the period 2018-2022 (quarter I), in 54 entities that participated in filling out the questionnaire, only 4 integrity warnings were registered and examined, and protective measures were requested in 2 cases. At the same time, in the “Disclosure of Illegal Practices in Moldova: Legislation and Mechanisms” Study¹¹¹, elaborated by NAC, in the period 2019 - 2020, in 73 entities that participated in the study, 8 internal integrity warnings were registered, but only in one case a person received integrity whistleblower status (but this one did not request protection).

National Anticorruption Center, as the authority that is empowered to record and examine external disclosures of illegal practices, does not provide information in this area in its annual reports. According to the NAC study, in the period 2019-2021, the NAC registered 10 disclosures of illegal external practices (2 cases in 2021; 4 cases in 2020 and 4 cases in 2019). However, there is no information about the cases registered and examined in 2022. During a public event, the NAC representative mentioned that in the period 2018-2022, the NAC recorded 11 integrity warnings

¹⁰⁸ The Law on whistleblowers no. 122 of 12.07.2018

¹⁰⁹ Approved by the Government Decision no. 23 of 22.01.2020 for the approval of the Regulation on the procedures for examination and internal reporting of disclosures of illegal practices

¹¹⁰ Evaluation report on the effectiveness of complaint mechanisms regarding corruption in the public sector of the Republic of Moldova, CAPC, 2022

¹¹¹ Study “Disclosure of illegal practices in Moldova: legislation and mechanisms”, NAC, 2022

regarding external disclosures of illegal practices.

The Law no. 122/2018 establishes that in case of external and public disclosures of illegal practices, the protection of integrity whistleblowers is ensured by the **People's Advocate (Ombudsman)**. The People's Advocate receives and examines whistleblower protection requests under the terms of the Law no. 52 of 04/03/2014 regarding the People's Advocate, applying the procedures provided by this Law. At the same time, the Ombudsman can act ex officio for the protection of the whistleblower, who has made public disclosures, on the condition that the whistleblower expresses his express consent to benefit from the protection of the Ombudsman. In addition, the Ombudsman contributes to the cancellation of retaliatory measures and the amicable resolution of conflicts between whistleblowers and public or private entities; elaborates recommendations regarding the measures to be taken for the immediate reinstatement of whistleblowers; ensures the submission of actions in courts and intervention in processes to submit conclusions in order to defend the rights and freedoms of whistleblowers.

At the beginning of 2022, 7 cases regarding the protection of potential whistleblowers were under investigation by the People's Advocate:

- 1 case in the primary examination phase and 2 cases in the process of accumulating materials from the authorities to establish the causal link; In all these cases, the People's Advocate issued decisions to terminate the examination, since the facts presented in the requests were not confirmed and the causal link between the disclosure made and retaliation could not be identified
- 4 cases in the administrative litigation process, which were monitored during 2022, being maintained in the Court of Appeal and the Supreme Court of Justice, the conclusions previously submitted in the first instance. In general, courts do not examine files involving whistleblowers through the whistleblower mechanism, usually being limited to an ordinary labor dispute, possibly operating with some findings of the Ombudsman. In one case, the Court of Appeal and the Supreme Court of Justice rejected the request to cancel the

disciplinary sanction and reinstate the held position. In other cases, when the integrity whistleblowers contested several retaliation actions in the administrative litigation, they were partially admitted. However, in one case the Ombudsman managed for the first time to contribute to the protection of an integrity whistleblower, by submitting his Conclusions in court. In this case the employer took direct retaliatory actions and did not implement the Ombudsman's Recommendations to stop any form of retaliation. The whistleblower was retaliated against and fully reinstated.

During 2022, the People's Advocate received 7 requests for protection as an integrity whistleblower from employees of the General Prosecutor's Office, the National Probation Inspectorate, the National Integrity Authority, from some lawyers from the Union of Lawyers and from one employee of a refugee placement center. In 5 cases, decisions were issued to terminate the examination, because the facts were not proven, and 2 cases were in the process of documentation to identify the causal link between the disclosure made and the retaliation undertaken.

VII.2. The contribution of public authorities and civil society in the promotion and application of the whistleblower mechanism

The central authorities responsible for reviewing whistleblowers and protecting whistleblowers (NAC and OAP) have taken several actions to promote the whistleblower mechanism and encourage potential whistleblowers to use this mechanism.

Thus, in order to promote the applicability of this mechanism by the judicial environment, the Office of the People's Advocate jointly with the National Anticorruption Center organized during 2022 several training workshops with judges and court employees from the courts of Ungheni, Edineț, Briceni, Dondușeni and Ocnița. The purpose of these training workshops was to respect human rights and freedoms aimed at cultivating and strengthening the climate of institutional integrity, by promoting anti-corruption policies, integrity and existing protection mechanisms.

In 2022, the Office of the People’s Advocate continued the implementation of electronic tools in order to publicize the mechanism of whistleblowers and the web application/form “Submission of the online application for protection by the integrity whistleblower”, the special section for studying online e-learning¹¹² (launched with the support of UNDP Moldova), etc. The first course within the e-learning platform was generically named “Integrity Alerts”¹¹³. It provides information about whistleblowing, the actions you need to take to obtain whistleblower status and the protections available to you. By completing the online course, users have the opportunity to check their knowledge on the same platform.

At the same time, during 2022, through the activities carried out, CAPC pursued changes in attitude (including at the level of public authorities), breaking stereotypes in society by creating positive practices for effective investigation of whistleblowers and protection of integrity whistleblowers. Training rounds were organized for judges and prosecutors regarding the specifics of examining cases with the participation of whistleblowers; training rounds with representatives of public authorities, mainly local, in partnership with NAC and OAP; 2 guides and several information cards were developed in order to popularize and inform in an accessible manner all interested persons about the mechanism of integrity warnings. An important component in CAPC’s activity was the support of whistleblowers by offering the necessary legal advice and assistance, including assistance in preparing the application to the ECtHR in defense of the rights of a whistleblower, wrongly accused by the national courts.

During 2022, CAPC developed the analytical document “Integrity alerts: between regulations and application practice”¹¹⁴; organized the training workshop “Break the silence: Improving whistleblower policies and disclosure culture in

the Western Balkans and Moldova”¹¹⁵; conducted trainings “Institutional protection mechanisms and the examination of cases with the involvement of whistleblowers” for private companies, AmCham Moldova members, etc.

VII.3. Systemic problems in the effective functioning of the integrity whistleblower mechanism

The mechanism of integrity whistleblower is still little known and applied in the Republic of Moldova, even if several efforts have been undertaken by the authorities and civil society. Potential whistleblowers are still reluctant to use this mechanism. This reluctance is fueled by distrust of confidentiality and uncertainty/distrust that integrity warnings will be effectively investigated. Moreover, it seems that the whistleblower protection mechanism is not sufficiently reliable, a fact also recognized by the OAP, whose recommendations are frequently ignored by employers.

Emerging from the findings of the Ombudsman’s activity reports¹¹⁶ and civil society studies¹¹⁷, there are systemic problems in the effective functioning of the integrity whistleblower mechanism, namely:

- Lack of an umbrella institution to monitor and guide public entities and agencies in the application of the mechanism. Even if some of these activities are provided by NAC and OAP through the evaluations of institutional integrity, the trainings carried out, however, they are not exercised in a consistent and permanent manner. Moreover, there is no authority to collect and analyze in real time data on the application of the mechanism (application practices): internal systems created, designated persons, warnings recorded/reviewed; the protective measures applied and their categories, etc.;
- Public sector exponents and employees still

¹¹² The online e-learning platform on the website of the People’s Advocate

¹¹³ The online form on the Ombudsman’s website for submitting the request for protection by the integrity whistleblower

¹¹⁴ Policy Brief “Integrity whistleblowers: between regulations and enforcement practice”, CAPC, 2022

¹¹⁵ Training Workshop “Break the Silence: Improving Whistleblower Policies and Disclosure Culture in the Western Balkans and Moldova”, CAPC and RAI

¹¹⁶ The annual reports of the People’s Advocate regarding the observance of human rights and freedoms in the Republic of Moldova

¹¹⁷ The evaluation report on the effectiveness of the complaint mechanisms regarding corruption in the public sector of the Republic of Moldova, CAPC, 2022

- do not know the essence of the integrity warning mechanism, despite the training and information campaigns carried out;
- The formal approach of entities in the implementation of the mechanism, including by providing incorrect or inconsistent data: the internal system created without registry of integrity whistleblowers, without guaranteeing the confidentiality of potential whistleblowers, without credible persons (with impeccable reputation), responsible for registration and examination of integrity warnings, without effective and prompt examination of integrity warnings; the existence of regulations regarding whistleblowers that have not been adjusted to the rigors of the new Law no. 122/2018, etc.;
 - Very weak safeguards compared to the effects of retaliation on employees and the complexity of subsequent legal proceedings, complemented by the judges lack of knowledge of the mechanism of integrity warnings substance;
 - Almost non-existent or questionable judicial practice. Judges, in the process of examining administrative litigation cases, when integrity whistleblowers appealed the administrative sanctioning acts applied by employers as a result of the disclosures made, avoid applying the provisions of the Law 122/2018, even if they admit the intervention of the People's Advocate in the process in order to submit Conclusions accurately describing the elements of the disclosures made and the causal links to the retaliation undertaken;
 - the difficulty of changing the mentality in society regarding the tolerance of corruption manifestations and their non-reporting, including the lack of incentives for those who report;
 - the lack of action algorithms in the case of public warnings: who reports, who examines, etc.

8. ACCESS TO INFORMATION AND TRANSPARENCY OF THE DECISION-MAKING PROCESS

VIII.1. Respecting the right of access to information

Access to information is a fundamental right and an essential element of democratic governance and the rule of law. The right regarding access to information is recognized directly in the Constitution of the Republic of Moldova and developed in corresponding normative acts. However, there are several signals that in the Republic of Moldova ensuring open governance continues to be a problem. The common experience of civil society organizations indicates a modest culture of transparency and lack of genuine commitment in this regard.

The report “Index of Access to Information: measuring the transparency of public institutions in the Republic of Moldova”¹¹⁸, developed by the Freedom House in 2022, demonstrates that institutions at the central and local level do not respect essential obligations regarding proactive transparency, and citizens face problems when accessing basic information. In total, the monitored institutions managed to obtain 548 out of 1508 available points (36%), which indicates a decrease compared to 2021. The websites of public institutions throughout the public administration system require major improvements, both in terms of the quantity and quality of available data.

There is no institution that collects, systematizes and analyzes statistical data on the practice of processing requests for information of public interest by public institutions.

Among the major issues in the process of requesting access to information, the report

notes the protection of personal data, as well as the principle of salary confidentiality guaranteed by the Labor Code, invoked by public authorities in the case of information requests, especially those related to the income of public employees. These shortcomings could be overcome by expressly stating that personal data legislation or labor legislation cannot serve as an excuse to prevent the communication of information of public interest.

The Freedom House analysis mentions the appeals procedure in individual cases, where access to information has been refused (or presenting an answer failed) as a defective one due to an inconsistency between the Access to Information Act and the Administrative Code. The adoption of the latter, without making the appropriate adjustments to the pre-existing legislation, generated confusion including in judicial practice. This ambiguity also led to the taking of contradictory decisions at the level of the Supreme Court of Justice¹¹⁹. In addition, significant inconsistencies were detected regarding the **sanctions for violating the right to information** (art. 71 para. (1) of the Criminal Code and art. 180 of the Criminal Code). Annually, the police solve approximately 100 cases based on the provisions of the Criminal Code. On the other hand, according to the data obtained by the Ministry of Justice, no case was registered based on art. 180 of the Criminal Code, which remains a purely theoretical norm.

The Ministry of Justice initiated the process of drafting a new law on access to information of public interest. Although the first draft law was supposed to be presented by the end of the first quarter of 2022, this deadline was not respected

¹¹⁸ INDEX OF ACCESS TO INFORMATION: measuring the transparency of public institutions in the Republic of Moldova, edition 2022, November 2022,

¹¹⁹ INDEX OF ACCESS TO INFORMATION: measuring the transparency of public institutions in the Republic of Moldova, November 2021, pag. 16

and we have no information about the fate of this legislative initiative until the end of 2022 either. A new, more ambitious and progressive law would be able to establish a new legislative basis on access to public information. However, this must be followed by appropriate efforts in terms of awareness and law enforcement.

The monitoring report of the activity of the Parliament of the 11th legislature in the period 2021-2022, performed by the Promo-LEX Association¹²⁰, notes several gaps in the reflection of Parliament's activity on the authority's official website. The structure of the current web page is complicated and outdated, does not sufficiently reflect information of public interest, is not intuitive and visually impaired friendly, and the fields are not completed or updated. The information published on the Parliament's web page is not presented in the "open data" format. This is attached, as a rule, in the format of a pdf document (with the exception of draft decisions/laws that are also published in docx format), which do not allow automatic data processing, only their consultation and transcription, if necessary.

Regarding requests for access to information of public interest, of the 45 requests registered in the Parliament during the autumn and spring sessions, 40 (89%) were solved. The others have either not been solved, have been redirected, or are under review. At the same time, to the requests for access to information of the Promo-LEX Association (19 requests), in at least 9 (47%) the answers were received after the deadline of 15 working days provided for in art. 16 of the Law on access to information, in at least 4 cases (21%) the answers were general, and in 3 situations (16%) the answers were incomplete/partial.

VIII.2. Deficiencies in ensuring the transparency of the decision-making process

Ensuring decision-making transparency by the central public authorities is monitored by the State Chancellery, which prepares a generalized

annual report in this regard. The last report on transparency in the decision-making process within the central public administration authorities, accessible to the public, was published by the State Chancellery in March 2022 and highlights the situation in 2021¹²¹.

According to the report's findings, around 93% of draft decisions and laws promoted by ministries and approved during 2021 were exposed to public consultations, others being approved as an emergency. From the total number of recommendations related to draft normative acts developed by the relevant ministries, received from citizens, public associations, trade unions, patronage associations, representatives of the business environment, mass media, development partners and other interested parties, about 57.1% were agreed/accepted. It is also noted that most of the authorities managed to ensure all the internal conditions for the organization and conduct of public consultations, according to the established provisions (published information on the coordinator of public consultations, internal rules regarding public consultation, line/phone numbers for consultation with civil society, annual reports regarding decision-making transparency, etc.).

Regarding the Parliament, the studies of civil society organizations carried out in 2022 highlighted several deficiencies, obstacles and gaps in ensuring decision-making transparency and public participation in the decision-making process of the Legislature.

The monitoring report of the activity of the Parliament of the 11th legislature in the period 2021-2022, performed by the Promo-LEX Association¹²² notes that decision-making transparency was largely not respected, and at certain stages it was even seriously affected. This was prejudiced by:

- omission of the elaboration/publication of documents related to citizens' consultation;

¹²⁰ The monitoring report of the activity of the Parliament of the 11th legislature in the period 2021-2022, Promo-LEX Association, 2022

¹²¹ The report on ensuring transparency in the decision-making process by the authorities of the central public administration for the year 2021, State Chancellery, 2022

¹²² The monitoring report of the activity of the Parliament of the 11th legislature in the period 2021-2022, Promo-LEX Association, 2022

- low rate of public hearings and debates organized by the Parliament (for example, in the case of initiatives submitted by deputies, only 21% of them were organized and held public hearings and debates by the standing committees);
 - conducting public consultations in 41% of cases between the first and second reading, contrary to the legal requirements for organizing and conducting public consultations before voting on the project in the first reading;
 - offering an extremely short period (up to three days) between the announcement of public consultations and their implementation, which led to the participation of a small number of civil society representatives, but also a low level of contributions that are granted;
 - high degree of ignoring the recommendations of the General Legal Directorate, as well as the omission of the request for anti-corruption expertise / the granting or publication of this expertise, at the stage of approval and expertise of normative acts (in the context when, in regard to 56% of the draft normative acts expertized by the NAC, the existence of factors that can generate risks of corruption was found);
 - lack of certain documents (opinions, expertise, reports of the permanent commission, etc.) for 60% of the draft normative acts before the vote in second reading;
 - non-publication of public consultations summaries on the Parliament's website (only in 23% of cases such summaries were identified for draft laws that were submitted to public consultations).
- deficiencies listed:
- lack of public consultations regarding the amendments and draft laws developed and submitted by the deputies;
 - limiting public consultations only to the publication of draft laws on the Parliament's website;
 - lack of information and involvement of stakeholders in the examination of legislative initiatives that may affect them;
 - lack/non-functionality of consultative and partnership platforms between Parliament and the public;
 - selective and sometimes defective organization of public consultations for draft laws examined by parliamentary committees;
 - ignoring the opinions of consulted parties and not informing about the results of public consultations;
 - the urgency the draft laws are examined with in parliamentary committees and adopted in the Plenary of Parliament, in violation of the deadlines set for public consultation, as well as the reception of recommendations, or laws are adopted without public consultations;
 - lack of predictability of the legislative process;
 - lack of sanctions for violating transparency requirements by deputies and responsible persons;
 - difficulty of following the route of a draft law from the moment of its registration until the vote in the plenary session of the Parliament.

Analysis “Transparency of the legislative process: between the image of the Parliament and the urgency of adopting laws”¹²³, developed by the Center for Entrepreneurship and Economic Policies (CEEP), likewise, shows that the Parliament continues to remain stagnant in the transparency chapter and public information about its activity. The monitoring results show the existence of deficiencies at all stages of the legislative process, with the following main

VIII.3. Measures to make the consultative process more efficient in the context of commitments to join the European Union

The Republic of Moldova assumed several commitments through the Association Agreement with the European Union to ensure an efficient, participatory and transparent decision-making process.

¹²³ Analysis “Transparency of the legislative process: between the image of the Parliament and the urgency of adopting laws”, CEEP, 2022

The European Commission indicates in its Opinion, which preceded the granting to the Republic of Moldova of the status of a candidate country for accession to the European Union, the undertaking of measures to increase the involvement of civil society in decision-making processes at all levels. In response, in point 8 of the EU AP, two actions are foreseen for the Government and the Parliament:

- Ensuring the operation of permanent consultative platforms at the level of central public authorities in order to involve civil society representatives in the process of elaborating and promoting public policies by the Government;
- Launching and operationalizing a permanent platform for cooperation with civil society (Parliament).

Thus, if at the level of central public authorities only efforts are required to ensure the functioning of existing permanent consultative platforms (example: the Economic Council next to the Prime

Minister of the Republic of Moldova, councils and working groups next to ministries and other public authorities, etc.), then for the Parliament it is planned to create by July 2023 a new tool for the involvement of interested parties in the decision-making process in the Parliament – the permanent platform for cooperation with civil society.

The Center for Entrepreneurship and Economic Policies addressed the subject of the permanent platform for cooperation with civil society in the Parliament within the events held and the documents developed in 2022. According to the CEEP recommendations¹²⁴, the mandatory institutionalization of the platform is necessary, with the regulation of the organization and operation procedures. It is proposed to organize the platform in thematic groups by fields, and to ensure the smooth running of its work, also it is proposed to ensure the technical and logistical support of the secretariat work by the development partners of the Republic of Moldova.

¹²⁴ Recommendations for achieving commitments to create the Cooperation Platform at Parliament level as an effective tool for consulting the business environment in the decision-making, CEEP, 2022

9. INTEGRITY AND TRANSPARENCY IN PUBLIC PROCUREMENT

IX.1. Priorities and problems of the national public procurement system

The public procurement sector was marked in 2022 by unprecedented growth. The latest **statistical data**¹²⁵ shows that the volume of purchases in the year 2022 increased by 62% compared to the same period of the previous year. Thus, during this period the public authorities of the Republic of Moldova awarded public procurement contracts worth 13.68 billion MDL, 5.24 billion MDL more than in 2021. At the same time, public procurement continues to be one of the sectors most vulnerable to fraud and corruption risks, a fact demonstrated by the audit and monitoring of the responsible institutions, but also by the media and civil society investigations.

The integrity of the public procurement sector in the Republic of Moldova is evaluated at a low level in the reports and evaluations of international organizations. **The World Bank's MAPS report**¹²⁶, which evaluated the national public procurement system in the Republic of Moldova, highlights two main issues regarding the ethics and integrity of the sector. They aim at the lack of review and analysis of declarations regarding the absence of conflicts of interest and assets held (confidentiality and impartiality declarations) and the reduced effectiveness of applied anti-corruption measures that are regulated but not systematically applied in practice.

Although journalists' investigations, civil society reports and the audit of the Court of Accounts, carried out in 2022, identify multiple frauds and illegalities in purchases, those responsible are not investigated and held accountable according to the law. In the **Report of the National**

Anticorruption Center for the first semester of 2022¹²⁷, a single case of public procurement rigging in the municipality of Chisinau is elucidated. 5 passive and active corruption files were opened as a result of documenting the illegal actions of the manager of a municipal catering enterprise in Chisinau and three economic agents. Periodically, on the NAC website, information is published on the cases of corruption instrumented by the NAC and the Anticorruption Prosecutor's Office for the rigging of public procurements.

The public procurement sector is a priority for the Government, if we analyze the objectives and actions provided for in the Government's Action Plan for the years 2021-2022. Four specific actions have been set for 2022, including:

- Implementation of procurement specialist certification mechanisms to train, assess and qualify at least 100 specialists;
- Elaboration and approval of the public procurement system development program;
- Integral development of the MTender electronic public procurement system;
- Development of the normative framework in order to ensure the implementation of the Law no. 131/2015 on public procurement and the Law no. 74/2020 on procurement in the energy, water, transport and postal services sectors.

At the same time, action 7.1 of the EU AP provides for ensuring the transparency of the process of initiating, conducting and awarding low-value public procurement contracts. More precisely, until the end of October, the drafting (Ministry of Finance) and approval of the Regulation on small

¹²⁵The report of the Public Procurement Agency regarding the activity in the field of public procurement during the year 2022

¹²⁶ The evaluation report of the public procurement system of the Republic of Moldova (MAPS), World Bank, 2021

¹²⁷ The report of the National Anticorruption Center for the first semester of 2022

value purchases (Government) was foreseen.

However, in 2022, no progress has been made regarding the improvement of legislation, transparency or the functionalities of electronic system for the digitalization of the entire procurement process and the elimination of paper, development of secondary legislation and certification mechanisms, etc. The Ministry of Finance has not elaborated the Sector Development Program that sets the vision and objectives for improving the procurement process, although the new Program was to be developed and approved by the end of 2022.

The National Integrity and Anticorruption Strategy (NIAS) for the years 2017-2020, whose implementation period has been extended until 2023¹²⁸, includes public procurement in one of the 9 sectors identified as the most vulnerable to corruption. However, the Anti-Corruption Plan in the Procurement Sector was not extended and no other policy documents were developed or implemented during the current year. We remind you that the monitoring reports regarding the implementation of the anti-corruption Plan in the procurement sector, drawn up by public authorities¹²⁹ and civil society organizations¹³⁰, ascertains the non-fulfillment or partial fulfillment of the actions in the Plan.

IX.2. Arrears regarding the modification of the regulatory framework in the field of public procurement

With reference to the improvement and adjustment of the legal framework, during 2022 no progress was recorded, although some legislative projects were worked on. There are a number of regulations that are either outdated and need to be adjusted to changes in the primary framework, or are missing. This state of affairs leads to contradictions between the primary and the secondary regulatory framework, high discretion

in the decision-making process, associated with corruption risks, but also difficulties for authorities and operators in the procurement process.

An eloquent example is small value purchases. According to the Report of the National Anticorruption Center for the first semester of 2022, the analysis of the public procurement system highlighted the predisposition of the contracting authorities towards public procurement of low value, in order to avoid the application of the Law on Public Procurement no. 131/2015. At the same time, the data analyzed by NAC show indications of the intentional division of public procurement into low-value procurements in order to omit the transparency of the process and to favor certain individuals.

Small value purchases are regulated by a Regulation¹³¹, not updated since 2016, when the Law on Public Procurement was substantially amended, including the thresholds being raised almost twice. According to this Regulation, public authorities do not have the obligation to carry out low-value procurement procedures through the electronic system and, therefore, to ensure their transparency, a fact that causes high risks of corruption. In other words, public authorities have the right to directly contract, at their discretion, any company for the procurement of goods, services or works, whose value falls within the above thresholds. Although they are called low-value purchases, if analyzed as a total volume relative to high-value purchases (open tenders, COP), their value is significant. Official statistical data on purchases and small value contracts do not exist. According to the Analytical Synthesis of the audit results related to the field of public procurement in the period 2020 - 2021¹³², the Court of Accounts estimates the value of low-value purchases at around 9 billion MDL. Annually, over 20 billion MDL circulates through the public procurement system, which represents about 20% of the national public budget expenses.

128 Parliament Decision no. 241 of 24.12.2021 regarding the amendment of Parliament Decision no. 56/2017 for the approval of the National Integrity and Anti-corruption Strategy for the years 2017-2020

129 The report of the Ministry of Finance on the implementation of the sectoral plan of anti-corruption actions in the field of public procurement for the year 2020

130 The monitoring report of the sectoral plan of anti-corruption actions in the field of public procurement for the years 2018-2020 (period subject to monitoring – year 2019), IDSI "Viitorul", 2020

131 Government Decision no. 665 of 27.05.2016 for the approval of the Regulation on low-value public procurement

132 Analytical synthesis of audit results related to the field of public procurement in the period 2019-2020, Court of Accounts, 2021

In 2022, the Ministry of Finance developed a new regulation on low-value public procurement, which will be applied to both traditional and sectoral procurements. Initially, the project¹³³ was published for consultation in June 2021, and on 31.10.2022 the Ministry of Finance organized a press club¹³⁴, where it presented the draft Regulation on public procurement of small value. Later, in December, the Government approves the new Regulation of low-value public procurement¹³⁵, which will be applied from 1.07.2023.

The provisions of the new Regulation were criticized by civil society representatives, who developed and published a Public Appeal regarding the need to ensure transparency and efficient regulation of low-value public procurement¹³⁶. The signatories of the public call mention that a different draft Regulation was approved than the draft consulted with them by the Ministry of Finance, without taking into account the proposals of civil society. According to them, the new Regulation approved by the Government does not bring transparency and open access to data on low-value purchases. In this case, it is mentioned about the increase of value thresholds for direct contracting without procedure through the electronic system, but also about the exclusion of the obligation to publish data (at least post-factum) regarding the results of the awarding of low-value procurement contracts in automated information system "State Register of Public Procurement (the new provisions are unclear and inapplicable).

The certification of specialists in the public procurement sector has been on hiatus for several years. The development of the certification system was planned for 2018 according to the Public Procurement System Development Strategy for 2016 - 2020. Even during 2022, the certification mechanism for public procurement specialists was not developed and approved.

The lack of progress is also noted regarding the development and approval of the regulation regarding the activity of procurement service providers. The Ministry of Finance initiated this process towards the end of 2021, by publishing an announcement regarding the initiation of the development of the project, which remained without progress.

Galloping inflation and, respectively, the increase in prices in the field of construction determined the need to update the values of public works procurement contracts. Thus, in April 2022, the Government Decision no. 279/2022 was approved for the amendment of the Regulation on the periodic adjustment of the value of public procurement contracts with continuous execution, concluded for a term longer than one year approved by GD no. 1129/2018¹³⁷. The project was submitted to public consultations through the web page of the Ministry of Finance (without respecting the minimum term established by law).

On May 12, 2022, a new project to amend the Law on Public Procurement no. 131/2015 was registered in Parliament¹³⁸. Overall, the project aimed at improving and adjusting the current regulatory framework to contribute to increasing the transparency of procurement, including low-value procurement contracts. However, it had a number of shortcomings and proposals (e.g., the obligation of a minimum of 3 offers if the announcement was not published in the electronic system) that would have created additional difficulties in the procurement process. And NAC's anti-corruption expertise confirmed that the said project contains a series of loopholes and corruption risks. Later, the draft law was withdrawn.

The digitization of the procurement process is one of the most effective tools for transparency of procurement and prevention of fraud and corruption risks. Although the development of the

¹³³ The draft Government Decision for the approval of the Regulation on low-value public procurement, developed by the Ministry of Finance

¹³⁴ Ministry of Finance communique from 1.11.2022

¹³⁵ Government Decision no. 870 of 14.12.2022 for the approval of the Regulation on low-value public procurement

¹³⁶ Public appeal of civil society regarding the need to ensure transparency and efficient regulation of low-value public procurement

¹³⁷ Government Decision no. 279 of 27.04.2022 for the amendment of the Regulation on the periodic adjustment of the value of contracts of public procurements with continuous execution, concluded for a term longer than one year, approved by Government Decision no. 1129/2018

¹³⁸ The draft law to amend Law no. 131/2015 on public procurement no. 181 of 12.05.2022

MTender e-procurement system¹³⁹ is a priority in all public policy documents, during 2022 no progress was registered in that direction. The MTender electronic system remains insufficiently developed, whose technical functionalities do not ensure a fully electronic procurement process – from planning to the execution of contracts. Also, the system does not have a series of technical functionalities for the application of the procurement procedures provided for by law, the application of all criteria for awarding, evaluation, contracting, monitoring, automatic generation of procurement documents, as stipulated by GD no. 705/2018¹⁴⁰.

The year 2022 was also one with modest results in terms of sectoral public procurement. Although more than 2 years have passed since the adoption of the Law no. 74/2020 (in force from June 2021), the normative framework for the implementation of the law has not yet been developed and approved. The contracting entities do not use, with some exceptions, the electronic procurement system; respectively the transparency of procurement in the energy, water, transport and postal services sectors still remains a challenge. According to an AGER analysis¹⁴¹, the field of sectoral procurement is rudimentary and insufficiently regulated. The analysis revealed that only 15 contracting entities submitted announcements and notices for publication in Public Procurement Bulletin during the first six months of the current year.

The uneven application of the legal framework in the field of sectoral procurement, but in particular the complete disregard for the Law 74/2020 by the majority of contracting entities, causes the lack of transparency of sectoral procurement and increases the risks of fraud and corruption.

One of the main problems of the sector is the inefficiency of the control and the lack of application of sanctions to the people involved in the rigging of public procurements. No progress was recorded in this chapter in 2022 either. Although, from December 2021 the responsibility to ascertain violations and apply sanctions rests with the Public Procurement Agency (the draft law on the amendment of the Criminal Code of the Republic of Moldova no. 218/2008)¹⁴², during 2022, no contravention was found or any sanction applied. Therefore, the only tool applied to prevent and counteract legislative violations in the procurement process is the monitoring of procurement processes. This fact is also confirmed by the latest report on the monitoring activity of public procurement for the first half of 2020¹⁴³ of the Public Procurement Agency. As a result of the monitoring, it was found that only in case of 52% of the purchases made in violation of the legal framework provisions, the contracting authorities remedied the violations. Respectively, every second purchase was completed and respectively the procurement contract was awarded in violation of the legal provisions.

¹³⁹ Automated information system “State Register of Public Procurement” (MTender)

¹⁴⁰ Government Decision no. 705 of 11.07.2018 regarding the approval of the Technical Concept of the Automated Information System “State Register of Public Procurement” (MTender)

¹⁴¹ Article “How sectoral purchases did NOT become more transparent 2 years after the adoption of Law 74/2020”, AGER, 2022

¹⁴² Draft law no. 428 of 29.12.2021 regarding the amendment of the Criminal Code of the Republic of Moldova no. 218/2008

¹⁴³ The report on the exercise of monitoring duties by the Public Procurement Agency during the first semester of 2022

10. INTEGRITY IN BUSINESS

X.1. Initiatives to improve and promote integrity in the private sector

In 2022, the regulatory framework that regulates the field of integrity underwent a series of changes aimed at improving the measures to ensure integrity in the private sector. Among the most important novelties is the modification of the National Integrity and Anti-corruption Strategy for the years 2017-2020. This strategy was extended until 2023, and several actions in the private sector action plan underwent changes.

Regarding the priority of increasing integrity in the activity of enterprises with full or majority state/municipal capital shares, this was completed with two actions consisting of: (i) amending the law on access to information in order to include enterprises with full or majority state/municipal capital share in the list of information providers, who have the obligation to respond to the requests of applicants and to provide public information, specifying the public information held by the respective enterprises, and (ii) conducting periodic audits of performance and financial inspections at enterprises with full or majority state/municipal capital share.

At the same time, it can be observed that, in order to carry out the proposed actions regarding the priority related to business ethics, it is intended to work with employers' associations. Thus, the Chamber of Commerce and Industry and the American Chamber of Commerce of Moldova ("AmCham") are among the institutions responsible for promoting the model code of business ethics and corporate governance for commercial companies, international standards for the prevention of corruption in the sector private (ISO 37001:2016), providing advisory support to business associations regarding the implementation of integrity mechanisms in

the private sector and the development and publication of model documents regarding integrity standards in the private sector. The planned partnership with the representative associations of employers seems to be a necessary measure both from the perspective of business associations efficiency, and in the context in which the same law of integrity stipulates that codes of ethics are adopted at the level of professional associations of the business environment, being taken over and developed at the level of commercial organizations.

Also, during 2022 there were interventions on the Criminal Code¹⁴⁴, through which some protection measures for integrity whistleblowers were rethought. The new composition of the contravention provided for in art. 3141 of the Criminal Code, starting with the year 2022, sanctions the failure by the employer (regardless of whether the latter is from the public or private sector) to take measures to ensure the disclosure of illegal practices within the entity, failure to respect the confidentiality of employees who disclose illegal practices (disclosure of whistleblower identity) and failure to ensure protection measures for employees recognized as whistleblowers. By comparison, until the respective amendment, the article of the Criminal Code only sanctioned the act of not taking measures to protect public officials. The old solution was incorrect due to the fact that the Law on integrity whistleblower does not distinguish between employers of public entities and employers of private entities, the latter being equally responsible for not ensuring protection measures.

Through the same law, the legislator regulated a new component of the offense, which consists of the act of retaliation against the integrity whistleblower. The authors of the law noted that

¹⁴⁴ The Law no. 102 of 14.04.2022 for the amendment of some normative acts

the acts of revenge can be carried out not only by the persons directly responsible for ensuring the protection of the integrity whistleblower (e.g. employers), but also by other third parties (in connection with the whistleblower), the law being aimed at ensuring appropriate measures for any form of retaliation that can be carried out on the whistleblower.

A second law that took effect during 2022 and that improved the measures provided for by the integrity law in terms of the climate of integrity in the business environment is the one relating to the amendment of the Law on State Registration of Legal Entities and Entrepreneurs individual¹⁴⁵. Thus, starting with December 5, 2021, the state registration body was explicitly obliged to publish information on the name, surname and country of residence of the beneficial owners of legal entities and individual entrepreneurs. The registrars were also obliged to examine the information on the beneficial owners and verify the identity of the latter.

The respective legislative novelty is opportune in the context in which the integrity law, prior to the indicated amendments, contained outdated provisions regarding the transparency of the actual beneficiaries. As an example, although the Law of integrity (par. (1) of art. 41) establishes that information on the beneficial owners of commercial organizations is considered to be of public interest, and the holders of this information (the state registration body) must ensure access to it in the online regime, this obligation could not be fully respected.

This state of affairs was also caused by the provisions of another law (the Law on the Prevention and Combating of Money Laundering and the Financing of Terrorism), which establishes some contrary rules, namely, that the data accumulated by the state registration body, including those regarding the actual beneficiaries, to be provided, upon request, to the Prevention and Combating of Money Laundering Service, the bodies with supervisory functions of reporting entities and reporting entities provided by law only for the purpose of executing the law on preventing and combating money laundering

and terrorist financing, as well as other persons in the event of the existence of a legitimate interest. Thus, it can be observed that the two laws contain contradictory provisions, the first qualifying the information about actual beneficiaries as being of public interest, and the second law establishing that the information can be provided in case of the existence of a legitimate interest. The Law no. 150/2021 clarified the provisions of the normative framework and removed any doubts regarding the nature of the information regarding the beneficial owners and how to obtain it.

A third law that was adopted at the end of 2021 and that should have had a major impact in 2022 is the Law no. 174/2021 on the mechanism for examining investments of importance for state security. The measures provided for in the new law increase the transparency of investments in areas of importance for state security, with any potential investors having to obtain prior approval for such investments.

According to the new law, in order to obtain prior approval, investors in areas of importance for state security (e.g. energy infrastructure, aviation security, television broadcasts/audiovisual services or electronic communications services and others provided by law), must submit information regarding the structure of the social capital, including the effective beneficiary, the country or countries where it operates and the main business partners in the country or abroad with whom it collaborates, the source of financial means for financing the investment, etc.

The examination of this information and documents should ideally be carried out through the lens of the following criteria: (i) reputation, knowledge, skills and experience of the potential investor; (ii) the financial soundness of the potential investor; (iii) the existence of suspicions regarding the expected investment related to the commission of money laundering crimes or the financing of acts of terrorism or other serious or particularly serious crimes; (iv) if the potential investor is controlled, directly or indirectly, by the government of a foreign state, including its public authorities/institutions or its armed forces, including through ownership structure or

¹⁴⁵ The Law no. 150 of 28.10.2021 amending Law no. 220/2007 on state registration of legal entities and individual entrepreneurs

significant financing, and if this fact may threaten the security of the state, etc.

At the same time, if the owner intends to transfer the control of the investment already made in the areas of importance for the security of the state to another person, the potential investor will also be obliged to obtain prior consent (the so-called “change of control clause”).

The Law on the mechanism for examining investments of importance for the security of the state thus contains a series of measures aimed at improving the transparency of legal entities activity and the private sector’s business with the state, as they are also regulated in the Integrity Law.

Among the events that took place during 2022 and that came to support honest and transparent businesses in the private sector is the Moldovan Business Gala, organized by the Chamber of Commerce and Industry and the State Agency for Intellectual Property¹⁴⁶.

Thus, in the year 2022, in the nomination “Implementation of integrity standards in the private sector”, the category of small enterprises, the prize was awarded to “EXPRES-TEST-AUTO” LLC, and in the category of large enterprises, the companies Orange Moldova, Moldcell, Metro, Kaufland and OTP Bank. These companies proved the implementation during 2021 of mechanisms to promote integrity and anti-corruption standards in business.

¹⁴⁶ NAC press release from 17.06.2022

