

Analysis of the Moldovan Government Action Plan for 2020-2023

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INTRODUCTION

1. On 14 November 2019, the Parliament granted a vote of confidence to a new Cabinet of Ministers, led by Mr. Ion CHICU. The same day, the Cabinet of Ministers took the oath and published the Government Program,¹ which covers the period until the presidential election expected in autumn 2020.
2. On 6 December 2019, the organizations members of the Moldovan National Platform of the Eastern Partnership Civil Society Forum (Moldovan National Platform of the EaP CSF) expressed their concern² regarding the Government Program of the Republic of Moldova. They highlighted that a series of reforms from the agenda of the previous Government were not included in the Government Activity Program, threatening the started reforms by the previous Government related to sustainable development, public administration reform, judiciary and anticorruption, independence of legal institutions, media and environment. At the same time, some of the announced priorities were not compatible with the principles of a functional democracy. The organizations called upon the new Government to ensure an inclusive and transparent process of adoption of the Government's Action Plan for 2020-2023 (hereinafter GAP) based and going beyond the Government Activity Program adopted on 14 November 2019.
3. The Government adopted its Action Plan³ on 11 December 2019, after a 2 days' notice for public consultations. The draft Action Plan was published for public consultations on Monday, 9 December 2019⁴ and was approved on Wednesday, 11 December 2019, without notification that the draft was going to be approved in a swift procedure.
4. Below we present a brief analysis of the GAP, focusing on key objectives and policy measures of sustainable development and reforms that are not properly addressed as per the commitments following from long-term national strategic policy framework and international agreements to which Moldova is part, including the EU-Moldova Association Agreement, notably in the areas of human rights and fundamental freedoms, foreign policy and European integration, judiciary and anticorruption, public administration reform, mass media, civil society and environment.

¹ Government Activity Program, 14 November 2019, https://gov.md/sites/default/files/document/attachments/the_activity_program_of_the_government_led_by_ion_chicu_en.pdf.

² Declaration of the Moldovan National Platform of the Eastern Partnership Civil Society Forum Regarding the Activity Program of the Government of the Republic of Moldova, 6 December 2019, <https://www.eap-csf.md/en/ro-declaratia-platformei-nationale-a-republicii-moldova-a-forumului-societatii-civile-din-parteneriatul-estic-cu-privire-la-programul-de-activitate-a-guvernului-republicii-moldova/>.

³ Government Action Plan for 2020-2023, 11 December 2019, https://gov.md/sites/default/files/document/attachments/pag_2020-2023.eng_0.pdf.

⁴ Draft Government Action Plan for 2020-2023, 9 December 2019, <http://particip.gov.md/proiectview.php?l=ro&idd=6948>.

ELECTORAL RIGHTS

1. The GAP does not contain any chapter dedicated to electoral rights, as the previous Government's Action Plan, despite the fact that both the domestic and international election observation mission reported irregularities in the last presidential and parliamentary elections. The Civic Coalition for Free and Fair Elections (entity comprised of Moldovan CSOs monitoring the electoral processes) concluded that the last parliamentary elections as of 24 February 2019 were partially free and unfair. Although the quality of electoral process slightly improved in general local elections of October 20 2019, there are a number of CoE/OSCE recommendations that needs to be addressed in order to ensure the conduct of free and fair presidential elections planned for late 2020.
2. The major issues in terms of respecting electoral rights to be resolved by Moldovan authorities include:
 - a. Moldovan Parliament had a very weak response to the Constitutional Court's request on closing the legal gaps identified in the course of 2016 Presidential elections, especially with regard to the sanctioning of religious cults involved in electoral campaigns, liability of broadcasters in electoral campaigns and better regulation of the procedure for examination of electoral disputes;
 - b. Misuse of administrative resources in Moldovan elections, residing in the lack of explicit regulation of this phenomenon in the national legislation. The problem was constantly reported by Promo-LEX observation mission and international observation missions that documented this widespread phenomenon, including during the last 2019 general local elections;
 - c. Lack of an effective mechanism to monitor the financing of political parties and candidates. Since 2015, Moldovan political parties receive annual funding from the state budget and the Central Electoral Commission (CEC) is still not able to ensure an efficient control of the way the money is spent. Previously, OSCE/ODIHR, Venice Commission and GRECO recommended that a body with adequate capacity, technical expertise and independence should be empowered for such oversight. Should the CEC remain the competent oversight body, it has to have sufficient authority and resources to conduct effective campaign finance oversight;
 - d. The issue of transparency in political and election campaign financing is strongly connected with the outdated and unclear regulation of the charity foundations affiliated to politicians. During the electoral period, the latest are indirectly involved in political activities, though donations or events sponsoring, in favor of the affiliated politician, contrary to international good practice;
 - e. Quality of the voter's lists. Promo-LEX Election Observation Mission found that the management of the State Registry of Population and the State Registry of Voters is being conducted improperly. Despite the negative population growth over the last two decades and the massive migration of the population abroad, there is a continuous increase in the number of voters in the voter's list. At the same time, the number of mandates for local councilors assigned for the general local elections of 20 October 2019 was reduced, in strict correspondence with the effective number of inhabitants, against the continued increase in the number of voters in the voter's list. The increased number of voters in the voter's list facilitates the electoral frauds;
 - f. Speaking about the local elections and in single-member constituencies elections, about 7% of the total number of voters (224,250 people), who have a registered residence and were not being able to vote.

3. In conclusion, Promo-LEX call the Moldovan authorities, especially the Government as an emanation of the parliamentary majority, to raise awareness of the respect for electoral rights and to ensure a broad social and political consensus for the remedy of the deficiencies mentioned above. In this way, guaranteeing an appropriate legal framework and socio-political environment for the conduct of free, fair and democratic elections.

JUDICIARY

1. The GAP includes 20 objectives related to judiciary in the Chapter I. The objectives cover the following areas:
 - a. independence of the judiciary and prosecution service;
 - b. strengthening of the Superior Council of Magistracy (SCM) and of the Superior Council of Prosecutors (SCP);
 - c. ordinary and extraordinary evaluation of judges;
 - d. the role of the Supreme Court of Justice (SCJ);
 - e. improving court administration;
 - f. review the disciplinary responsibility of judges and prosecutors;
 - g. creation of an anti-corruption court;
 - h. judicial practice;
 - i. adjustment of criminal sanctions for corruption offenses;
 - j. the state guaranteed legal assistance system;
 - k. the justice system's related professions.
2. The GAP provides for the amendment of the Constitution, in order to cancel the initial term of appointment of judges for 5 years; repealing art. 307 of the Criminal Code of the Republic of Moldova, based on which numerous judges were criminally prosecuted; the revision of the composition of the SCP and the modification of the legislation regarding the ordinary and extraordinary evaluation of judges and prosecutors. The plan also includes the analysis of the activity of the Judicial Inspection and the system of disciplinary accountability of the judges, as well as the analysis of the role of the Inspector of Prosecutors. According to the GAP, the Ministry of Justice will analyse the legal framework regarding the conditions for appointment and promotion in the positions of judge and prosecutor, with the identification of deficiencies and remedies.
3. GAP provides for the extraordinary evaluation (vetting) of judges. Vetting of judges is the last resort tool for combatting endemic corruption and systemic corporatism from the judiciary. For it to be successful, there is a need of the genuine intention of politicians to give up their control over judiciary, and overwhelming political support for this reform, strong involvement of development partners and civil society, as well a strong public support. These elements are not met currently. The behaviour of the current leadership of Moldova does not support the appearance that it wants to give up its control over judiciary. On the contrary. At the same time, the Council of Europe and the EU already expressed their reluctance to get involved in this reform. Ultimately, the public trust that this reform will succeed is questionable. In such conditions, the extraordinary evaluation of judges will only increase the influence of politics over the judiciary and will perpetuate corruption in

the judiciary. On the other hand, it will make it impossible to perform a genuine vetting of judges if the above conditions are met in the near future.

4. The GAP does not contain references to the need to develop a new Justice Reform Strategy. Without that, a comprehensive justice reform is not possible. The plan also does not include any objectives aimed at ensuring the further implementation of the Law on the reorganization of the courts. That law was adopted in 2016, as a part of the Moldovan undertakings towards EU. The district courts have been joined administratively (number reduced from 42 to 15) and the Government undertook to build the necessary facilities to join the courts physically. The failure of the CHICU Government to follow this reform will delay peoples' uncertainty generated by the started reform and, indirectly, the public trust in the judiciary.
5. However, the GAP includes certain less clear policy measures that are potentially dangerous for an independent, efficient and credible justice. For example, it proposes to set up an anticorruption court, an initiative which was abandoned by previous Governments. We consider that, in the current context of the Republic of Moldova, there is no sufficient number of cases to create a separate anticorruption court. The concentration of corruption cases within a single court risks leading to the concentration of interests and control over that specific court, further undermining its credibility and independence of judges. It will also affect the efficiency of the fight against high-level corruption.
6. The GAP also proposes "*to limit the number of legal actions a lawyer can participate in during one week.*" Such an approach can seriously affect the quality of the lawyers' services, their professional freedom and consequently their independence.

INTEGRITY AND ANTICORRUPTION

1. GAP includes 6 objectives related to integrity and anticorruption in the following areas: improving legal framework to eliminate external influences on the work of prosecutors and judges; integrity warning system; increasing public awareness of the judicial decisions on convictions for corruption of representatives of the justice sector; streamline legislation to streamline the activity of the National Integrity Authority (NIA), the Anticorruption Prosecutor's Office (APO) and the National Anticorruption Center (NAC) in the fight against corruption in the field of justice; anti-corruption policies; anti-money laundering and financing terrorism.
2. GAP provides for actions amending the legislation on the mechanism of control of assets and interests by June 2020 aimed to enhance the efficiency of the National Integrity Authority (A.1.24.1). However, there is no concrete action related to remediate (increase) the salaries of integrity inspectors, cut off in December 2018 by some 40% after the introduction of a unitary pay system in the budgetary sector. The only objective referring to the "improving of the unitary pay system" (O. 5.13), aiming at the re-evaluation of the

salaries in the budgetary sector is scheduled for December 2022. This is too late and will likely keep the NIA understaffed (17 employed integrity inspectors out of 46 positions).

3. The GAP also includes very general actions streamlining the activity of the Anticorruption Prosecution Office and the National Anticorruption Centre (A. 1.24.2-1.24.3), referring only to the legislation amendment, planned for end of 2020 and the analysis of the institutional integrity assessment mechanism (by September 2021).
4. There are no specific actions to streamline the mechanisms of fight against high-level corruption and the high-profile cases.

FOREIGN AFFAIRS (POLICY) AND EUROPEAN INTEGRATION

5. GAP includes 21 Foreign Policy objectives in the Chapter III. Out of them:
 - 15 refers to for foreign affairs priorities;
 - 5 refer to the implementation of the EU-Moldova Association Agreement and assessment of Moldova's capacity to comply with EU's Copenhagen criteria;
 - One policy objective aiming at strengthening MFAEI's capacity to conduct foreign affairs and diplomatic service.
6. The promotion of the "international recognition of the permanent neutrality" status of the Republic of Moldova is one of the new foreign policy objectives assumed by the Government (O. 3.2.). However, the implementation of this objective is limited to organising bilateral consultations with other states, but not mentioned with which states. References to these objectives can also be found in the Security and Defence chapter of the GAP.
7. Two objectives are referring to promotion of the Transnistrian conflict settlement process (O.3.3. and O 3.4.) in the framework of OSCE and as a result of bilateral consultations with Russia. No reference is made to the existing 5+2 format or to bilateral consultations with other international actors involved in the mediation effort i.e. Ukraine, USA or the EU.
8. The majority policy actions set for the resting bilateral relations with Russia (O.3.8.) include general references to the organisation of bilateral visits of the Russia's MFA and Prime-minister to the Republic of Moldova, or the organisation of the inter-governmental committee and are planned to be implemented largely in 2020.
9. One objective refers to "maintaining the bilateral relations" with USA (3.9.) and the policy actions refers only to the organisation of meetings of the Moldova-US sector structured dialogues on rule of law and trade and economic cooperation.
10. One policy objective refers to the bilateral relations with neighbours i.e. Romania and Ukraine (3.10). Majority of the policy actions are planned by the end of 2020 or 2021 and are less pro-active in seeking of settlement of bilateral issues and strengthening bilateral cooperation.
11. There is one specific policy objective referring to advancing relations with EU member states (3.11.). However, there is only one policy action planed by the end of 2020 and it refers to negotiations of the bilateral agreements with UK post-Brexit. No other policy actions are envisaged.

12. Separate objectives are set for Moldova's participation in CIS (O.3.12.). Another objective refers to the cooperation within other international and regional organisations (O.3.18), which refers in particular to the negotiation of a new IPAP with NATO in 2020, Moldova's Chairmanship of CEFTA in 2022, WTO, UN, GUAM.
13. A separate policy objective refers to the Progress in the process of finalizing the monitoring of the Republic of Moldova by the Parliamentary Assembly of the Council of Europe (PACoE). However there is only one policy action referring to the organisation of the visit to Moldova of PACoE members of the Monitoring committee and other three general policy actions that refers generally to the implementation the local autonomy with the aim to propose amendments to the national legal framework to implement the European Charter on local Self-government, assessment of the a Strategy on the local decentralisation 2012-2018 (2020) and drafting a new Strategy to strengthen local autonomy (in 2020).

Conclusion and recommendations:

1. The majority of the policy actions set for foreign policy objectives are rather general and in parts where it becomes more concrete the majority of the deadlines are set for mid or the end of 2020. Many proposed policy actions do not contribute directly to the implementation of the policy objectives. Some policy objectives are miss-placed in the Foreign Policy section of the GAP, for example objectives O.3.20. and O.3.21. that refers to the AA implementation.
2. The foreign policy objectives are attempting to introduce the so-called "balanced foreign policy" narrative promoted by the President of the Republic of Moldova. However, when assessing the concrete formulation of the objectives and proposed quite general policy actions it indicates that the respective narrative is rather declarative and in quite disbalanced. There are many general or even sometimes missing actions that would refer to the cooperation with EU member states, which indicates a declarative commitment. There is no reference to the implementation of the Strategic Partnership for European integration between Republic of Moldova and Romania.
3. The GAP repeats the objective from the Programme of the Government "to assess the real capacities of Moldova to initiate a national programme on the implementation of EU Copenhagen Criteria" (O. 3.7). However, it is hard to understand what the expected outcome of this objective is as it lacks any concrete actions on behalf of the Government or MFAEI. It may be an attempted effort of the government to 'balance' other policy objectives referring to making full use of Moldova's observer status in the Eurasian Economic Union (O. 3.13) or the rest of the relations with Russia (3.8).
4. It is noticeable that the GAP avoids any direct reference to "European Integration", even though 4 GAP objectives include monitoring the implementation of AA commitments, negotiations with the EU on a new Association Agenda and the transposition of the EU acquis as per AA into the national legal framework (inspired from the National Action Plan for the implementation of the AA). It is recommended to move the policy actions referring to AA/DCFTA implementation to other sector sections of the GAP or on the prospect occasion of the review and update the GAP it is recommended to avoid repetition in the GAP of the actions that are already presented in a special Government Action Plan on the AA implementation and are not referring to Foreign Policy.

1. The GAP does not envisage a specific chapter dedicated to the PAR and/or decentralization. Instead, scattered PAR objectives are provided in the chapter of 1 “Rule of Law”, whilst decentralization has a few objectives set at Chapter 3 “Foreign Policy”.

Public administration reform

2. PAR is only envisaged via two policy objectives in the GAP – O. 1.41. and O. 1.42., which refer to:
 - “the assessment of the efficiency of the current structure of the central public administration and the reorganization of the ministries and other institutions to increase the quality of promoted public policies and of provided services for citizens and business” and
 - “development of a body of responsible public servants, based on the principle of managerial responsibility and continuous training, as well as improvement of the system of promotion and financial and non-financial motivation”.
3. These two actions each have two policy actions:
 - 1.41.1. – uniformization of approach on the organization and functioning of the administrative authorities and public institutions, including those which are under financial autonomy and
 - 1.41.2. – development and approval of the template Methodology of establishment of fees for administrative public services, as well as
 - 1.42.1. – review of the normative framework related to the public service and the status of public servant to ensure an efficient management of human resources in public authorities, and
 - 1.42.2. – development and implementation of annual training programs for human resources from public authorities.
4. Although important in terms of assessing the effectiveness of the current structure of the central public administration, O.1.41. is not correlated in terms of sub-actions, as they relate to a uniformed approach towards the organization and functioning and the methodology of approval of fees of administrative services. It is not clear how the Government will implement O.1.41. as the policy actions do not specifically refer to evaluation, but much rather to uniformization.
5. Moreover, there is no clear linkage to the already existing Government Decision no. 595/2017 on the approval of the template structure of the Regulations on the organization and functioning of Ministries.
6. Objective 1.42. is indeed directed towards a better management of human resources, however the actions are not correlated time wise, as the trainings plans of the Government are to be adopted both for January 2020-2023 and June 2020-2023, with a total number of 4 Government Decisions being envisaged, which is a confusing number. The timelines also do not correlate with the envisaged amendments to the legislation relate to the public service and the status of public servants, which is envisaged to be sent to the Parliament in May 2020, where one training plan ought to have been already approved.

7. On PAR related aspects, one additional activity is envisaged in the GAP – assessment of implementation of the 2030 Sustainable Development Goals, approval of the Moldova 2030 Strategy and approval of statistical indicators to ensure the assessment of the SDGs 2030 are envisaged under policy objective 4.2. The Moldova 2030 Strategy is placed under Chapter IV – Economic development, whilst the Strategy envisages a number of other goals, among them the PAR and PAR related actions, which must be seen as means to attain the other goals of economic development.

Conclusions and Recommendations:

The GAP does not contain important activities which require immediate attention. The most important are recommended below:

1. Assessment of the implementation of the PAR Strategy for 2016-2020. Throughout 2016-2019 a number of significant changes were made within the public administration, including restructuring of ministries, separation of policy development and evaluation from policy implementation, reform of subordinated authorities including Agencies, Inspectorates, transfer of state enterprises and other publicly owned property into the management of the Public Property Agency and many other changes. In this respect, an assessment of the impact, with lessons learned and future actions in the field is necessary. Moreover, important actions related to the local public administration reform, including a potential territorial-administrative reform via a mandatory and voluntary amalgamation were envisaged in the PAR 2016-2020 Strategy but never implemented.
2. Approval of an Action Plan at least for 2020 to implement the PAR 2016-2020 Strategy. At present the only implementing document is the PAR 2016-2018 Action Plan. No actions were planned by the Government in 2019. It is understandable also from the perspective of political instability.
3. Approval of a new PAR Strategy for 2021-2024. The actions initiated by the previous Governments require continuity, particularly in respect to subordinated bodies and the ones which must pass a clear process of restructuring and redistribution of functions.
4. Introduce the practice of approval of strategic planning for central public administration authorities and of evidence-based policy making. This action may be found at the level of the Ministry of Interior referring to strategic planning only (policy objective 2.6.), but it does not envisage any central level, coordinated approach towards strategic planning and coordination among central public administration authorities. Although Law no. 100/2017 envisages higher quality standards for draft public policies, the methodology of approval and public consultation does not contain effective detailed normative framework, which is ought to be approved by the Government (article 24 para. (3) of the Law no. 100/2017).
5. Implement separation of public property of public domain of the central and local governments. Until now this issue of separation of public property was not finalized, although a Law was approved on that matter back in 1999. A clear separation of property is essential to ensure the proper management of resources and assessment of the sources of public funding for both the central and the local public authorities.
6. Ensure matching of strategic planning documents with the annual budgetary and medium-term budgetary frameworks.

7. Assess the implementation of the SIGMA Recommendations for Moldova issued for 2015 and prepare for the next evaluation mission.

Decentralization

1. One policy objective is envisaged in the GAP for decentralization – O.3.16. with four policy actions. They are placed under foreign policy chapter (III).
2. No separate chapter or subchapter on decentralization is envisaged and reads: “advancement in the process of conclusion of monitoring of the Republic of Moldova by the Parliamentary Assembly of the Council of Europe and promotion to a different level of structural cooperation of the PACE”. This objective has the following 3 policy actions relevant for the decentralization sector:
 - 3.16.2. – “amendment of the normative framework related to local autonomy in the context of the Local Autonomy Charter of the Council of Europe” with a deadline of December 2020
 - 3.16.3. – “Evaluation of implementation of the National Decentralization Strategy for 2012-2018” with a deadline of October 2020
 - 3.16.4. – “Development of the strategic document related to local autonomy”, with a deadline of October 2020.
3. First, the placement of the decentralization objective under foreign policy and particularly under the Moldova – CoE monitoring relations is cumbersome. The CoE monitoring is rather related to respect for human rights, although the local autonomy is indeed an aspect inter-related with the general commitments of the country relevant to local autonomy.
4. Second, the initiative to evaluate the Decentralization Strategy for 2012-2018 is supported by civil society. The timing of approval of a new strategic document related to local autonomy is however not appropriate, as the process of decentralization, including property, administrative, fiscal, financial must ensure continuity of the results obtained by the 2012-2018 Decentralization Strategy. Setting the deadline for a new strategic document for early 2021 is more appropriate.

Conclusions and Recommendations

1. Relaunch of the work of the Parity Commission responsible for decentralization, which is the instrument of communication and discussion of initiatives of further de decentralization. The Parity Commission did not convene for more than 3 years, which is a negative development in the practical implementation of the Law 436/2006 on administrative decentralization.
2. Assess the proposals of the Parity Commission and of the working groups and promote further administrative, financial, fiscal, property and other forms of decentralization.
3. Promote forms of cooperation among public authorities to increase the quality of local services, including via inter-municipal cooperation, voluntary and mandatory amalgamation as tools to test the existent solutions for the territorial-administrative reform.

REGIONAL DEVELOPMENT

1. The GAP has a dedicated chapter on regional development and spatial planning. Thus, Chapter 10 envisages a number of actions and sub-actions related to infrastructure projects such as water supply and sanitation, roads, waste management and local services. At policy level the GAP envisages the approval of a new Regional Development Strategy for 2021-2025, a new approach towards regional development, focusing on economic development, approval of the urban development program, amendments to the Law on regional development, adjustment of the work of the regional development councils. These initiatives are indeed necessary to ensure a switch of the current regional development approach of elimination of disparities to economic development.
2. Another package of initiatives relates to particular investment projects, particularly in infrastructure and delivery of services, which will be implemented from the National Regional Development Fund with the involvement of the Regional Development Agencies.

Conclusions and Recommendations

1. The adjustment of the regional development legislation and approach is very strongly linked with the existent territorial-administrative organization. Many of the problems of lack of functioning of the current regional development structures is due to the high fragmentation of the country. The amendments to the Law on regional development must be backed up with bold decisions on how to organize the country from the administrative point of view.
2. There is no separate body responsible for the implementation of the National Regional Development Fund. Until now that is done by the Ministry, which is not in line with the principles of the PAR Strategy for 2016-2020, including the separation of functions of policy development, monitoring and evaluation from implementation. The recent evaluations of the implementation of the National Regional Development Fund have shown a number of inefficiencies with funds spent in settlements where that infrastructure is not functional. The transfer of the management of funds from the Ministry of Agriculture, Regional Development and Environment to a separate entity, such as an Agency is essential to avoid conflict of interest and increase effectiveness of use of public funds.

CIVIL SOCIETY AND TRANSPARENCY IN DECISION-MAKING

1. The Government Program included only one action related to the civil society: *“Strengthen the watch-dog role of civil society organizations and prohibit their involvement in political activities”*. As it was mentioned in the declaration of the organizations members of the Moldovan National Platform of the EaP CSF,⁵ prohibiting the involvement of the CSOs in political activities is a restriction that goes against the international standards and

⁵ Declaration of the Moldovan National Platform of the Eastern Partnership Civil Society Forum Regarding the Activity Program of the Government of the Republic of Moldova, 6 December 2019, <https://www.eap-csf.md/en/ro-declaratia-platformeii-nationale-a-republicii-moldova-a-forumului-societatii-civile-din-parteneriatul-estic-cu-privire-la-programul-de-activitate-a-guvernului-republicii-moldova/>.

denies the CSOs' rights to engage in public policies and to participate in debates on topics of public interest.

2. The GAP includes three actions related to the civil society – (i) two actions regarding the involvement of the civil society in the process of developing and monitoring the implementation of public policies and ensuring transparency in the decision-making process and (ii) one action related to the state funding of the CSOs. It does not include any action targeted to define and limit the political activities of the CSOs, as the Government Activity Program of 14 November 2019 suggested.
3. Two actions of the Action Plan are dedicated to the **involvement of the CSOs in the implementation of public policies and ensuring transparency in the decision-making process**. These actions are intended to be realized through workshops and meetings with the participation of the CSOs and establishing the mechanisms of civil society involvement in the process of developing and monitoring the implementation of public policies and ensuring transparency in the decision-making process. The Action Plan does not give many details regarding the mechanisms intended to be put in place and does not explain what mechanism are needed in addition to the existing ones provided in the Law on transparency in decision making.
4. We believe that more actions are necessary in order to increase the transparency in decision-making in Moldova, namely:
 - a. Improve the legislative framework on transparency in decision-making processes: The legislation on transparency in decision-making at the level of the Parliament, Government and local public authorities needs to be improved. In 2016-2017, several CSOs submitted a number of proposals to the Parliament, recommending improving the Law on transparency in decision-making, Parliament's Rules of Procedure, the Law on access to information, etc. These proposals, however, have not led to any results. The Government, in cooperation with the Parliament, should resume the work on improving those pieces of legislation with the participation of CSOs.
 - b. Ensure transparency in decision-making in practice through the following actions:
 - i. ensure the functionality of and public access to the E-Legislation system provided by the Law No. 100 on Normative Acts provides the E-legislation electronic system (Art. 22). It should ensure the transparency of the law-making process and to include all versions of the legislative drafts and additional materials at different stages of elaboration. According to the same law (Art. 79 and 80), the portal should had been functional in 2019 and it has not yet been launched at the beginning of 2020;
 - ii. publication regularly the annual legislative plans of the Parliament, Government and ministries, which currently are either not published, or are very general;
 - iii. publication of all draft regulatory acts for public consultation, with no exceptions, by the ministries, Government and the Parliament;
 - iv. elaboration and publication of a government guidelines manual on the public consultation process of draft regulatory acts and public policies;
 - v. publication, with no exceptions and before draft laws are passed, of the summary of comments compiled after the public consultations ended, either on the website of the public institutions in charge of the draft law or on www.particip.gov.md platform;

- vi. establish/update and publish the lists of interested parties in the consultation process within the central public administration authorities in order to increase the efficiency of public consultations. Nowadays, very few ministries developed such lists and even few use them on a regularly basis;
5. Regarding the **state funding of the CSOs**, the GAP provides for one action - the development and approval of a framework Regulation on the mechanism of direct state financing of CSOs. We salute the inclusion of this action. However, we consider that the issue of state funding of CSOs should not limit itself only to the development of the legal framework. There is also a need to develop a strategic plan for the state funding of CSOs and a system of monitoring and evaluation of state funded projects. At the same time, the state funding mechanism should be transparent and based on merits.
6. Neither the Government Program, nor the GAP for 2020-2023 include other necessary actions regarding the civil society environment, such as:
 - a. Adoption and implementation of the Law on non-commercial organizations: This bill was designed for several years by the Ministry of Justice in collaboration with civil society. It improves considerably the framework legal for operation of NGOs and clarifies the limits for interaction between the NGOs and political parties. It was voted by the Parliament in the first reading in 2018 and is still pending the second reading. No provisions worsening the conditions for operation of NGOs (politicians are periodically raise such ideas) should be inserted in the bill. The Government has the right to withdraw the draft law in the Parliament. At the same time, the GAP does not provide any action for the implementation of the new Law on non-commercial organizations.
 - b. Effective implementation of the Civil Society Development Strategy for 2018-2020 (CSDS 2018-2020) and the development of a new strategy: Although the CSDS 2018-2020 was adopted more than a year ago, its implementation is at risk. The Government was to report on the CSDS implementation by 31 March 2019, which was not done. Besides, the Parliament and the Government have not yet appointed three representatives each in the Strategy Implementation Monitoring Committee, which should be done as soon as possible. Moreover, even if the CSDS expires in 2020, the GAP did not provide for the development of a new strategy.
 - c. Amend the Tax Code provisions concerning non-commercial organizations: The tax regime applied to non-commercial organizations is unclear and difficult to apply in practice. The CSDS 2018-2020 provides for the improvement of the tax legislation applicable for CSOs (Specific Objective 2.4.) by: (1) improving and unifying the income tax rules applicable to non-commercial organizations in a separate chapter of the Tax Code; and (2) improving the tax law on VAT applicable to CSOs with a public utility status. These changes need to be made by a working group set up by the Ministry of Finance, including as well representatives of CSOs;
 - d. Improve the legal framework on philanthropy and sponsorship: The legal framework is ambiguous, not adjusted to the current needs, does not regulate clearly how to perform sponsorship and philanthropy activities, etc. This results in non-commercial organizations using seldom or not using at all these mechanisms. The Ministry of Justice started working on a draft law to amend the Law on Philanthropy and Sponsorship No. 1420/2002. This draft needs to be written in cooperation with the non-governmental sector. It is also necessary to revise the mechanism of tax deductions for donations for philanthropy and sponsorship purposes, currently stated in the Tax Code, as it is inoperative.

- e. Ensure the proper implementation of the 2% Law (the right of the individuals to designate 2% of their income tax to CSOs):
- i. Allow liberal professions (such as lawyers, notaries, bailiffs, authorized administrators and mediators) to designate 2% of their tax by including the relevant field in the standard form filed by these categories of persons (DAJ17), similarly to the standard form for individuals (CET18);
 - ii. Amend the secondary legislation (Government Decision No. 1026/2010 on Financial Inspection) in order to ensure the power of the Financial Inspection to control the use of the 2% funds, which will start activity in April 2020.

MASS MEDIA

1. The GAP does not contain any chapter dedicated to media, which would contain solutions for the problems in the field: imperfect legal framework, concentration of ownership, abusive dominant positions on the advertising market, limited access to information, lack of tax incentives for the development of media outlets, journalists' limited access to databases, political subordination of 'Teleradio-Moldova' Public Broadcaster, etc. These problems have been repeatedly reported by media NGOs and experts, and were also included in the Resolution of the 2019 Media Forum.⁶
2. After the declarations of media NGOs⁷ and Eastern Partnership National Platform of Civil Society Forum⁸ and after a list of concrete proposals of priority activities were submitted to the State Chancery, only two actions related to mass media were included in the GAP, namely:
 - Action 1.38.2: Review the legal framework in matters of freedom of expression and access to information and amend the regulatory framework (term of implementation – November 2021);
 - Action 1.39.1: Prepare and approve the draft law on publicity (term of implementation – December 2020).
3. These two actions are insufficient for solving the complex problems that impede the development of Moldovan media outlets in conditions of honest competition on the media market and the publicity market, of legal and non-discriminatory regulation by the Broadcast Council, and of implementation of public policies for developing independent

⁶ Resolution of the 2019 Media Forum of the Republic of Moldova, Chişinău, 4-5 November 2019, <http://api.md/news/view/en-resolution-of-the-2019-media-forum-of-the-republic-of-moldova-chisinau-4-5-november-2019-2100>.

⁷ Media NGOs Request that Chicu Government Commits in its Activity Program to Improve the Media Situation, 28 November 2019, http://media-azi.md/en/stiri/media-ngos-request-chicu-government-commits-its-activity-program-improve-media-situation?fbclid=IwAR2GrdzKFhq_sqbeqbQIXcGMIsA4hGupzHOKHRtGY6AATzPvGyZuMzf6gW4.

⁸ Declaration of the Moldovan National Platform of the Eastern Partnership Civil Society Forum Regarding the Activity Program of the Government of the Republic of Moldova, 6 December 2019, <https://www.eap-csf.md/en/ro-declaratia-platformeii-nationale-a-republicii-moldova-a-forumului-societatii-civile-din-parteneriatul-estic-cu-privire-la-programul-de-activitate-a-guvernului-republicii-moldova/>.

and objective media outlets. At the same time, the timelines of implementation of the activities included in the Government Action Plan are exaggeratedly long, which induces the thought that the Government wants to delay the implementation of important media actions.

4. The Moldovan Government and Parliament must reconsider their position to the problems faced by the media outlets and to adopt a constructive attitude and a strategic approach in view of solving the problems that impede media development in accordance with European standards. Hence, it is important to go back to some draft laws, developed within the Working Group for improving media legislation⁹ that operated between June 2017 and July 2018 in the Parliament with the support of the Joint EU and Council of Europe Project “Promotion of Media Freedom and Pluralism in Moldova”. In addition, a few other draft laws must be prepared and passed, which would offer efficient solutions to the priority problems of the Moldovan media sector.
5. In particular, these are the following initiatives:
 - In order to ensure a framework of economic development of the media in fair competition conditions, the Moldovan Parliament and Government should take measures for demonopolizing the advertising market. It is mandatory to pass a new law on advertising (a draft law¹⁰ was prepared by the WG of the previous legislature, registered under no.180 and voted in the first reading on 11 October 2018). The passing of this draft law should take place as soon as possible and by no means be delayed until the end of 2020;
 - In order to hold the Competition Council accountable for the investigation of signals of abuse of dominating position, unfair competition and/or cartel understandings on the media and publicity markets, the Competition Law must be completed with additional provisions that would require the Competition Council to intervene efficiently in such cases (a draft law¹¹ was prepared and registered under no. 208 on 23 September 2019);
 - The Parliament and the Government must remove any political control over the appointment of the regulation authorities (Broadcast Council, Supervision Council of “Teleradio-Moldova”, Competition Council) and amend the law and current practices;
 - The National Media Development Conception must be enforced by using it as basis for developing the Media Development Strategy and the Action Plan for the implementation of the Strategy, with specific provisions, responsible institutions and financial coverage;
 - In view of ensuring the access of journalists to public interest information, the Government must ensure opening databases in legal conditions and the Parliament must pass the draft

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<http://www.parliament.md/Actualitate/%C3%8Embun%C4%83t%C4%83%C8%9Birealegisla%C8%9Bieimassmedia/tabid/255/language/ro-RO/Default.aspx>.

¹⁰ Draft law on advertisement, 4 June 2018,

<http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/4224/language/ro-RO/Default.aspx>.

¹¹ Draft law no. 208, 23 September 2019,

<http://www.parlament.md/%d0%97%d0%b0%d0%ba%d0%be%d0%bd%d0%be%d0%b4%d0%b0%d1%82%d0%b5%d0%bb%d1%8c%d0%bd%d1%8b%d0%b9%d0%bf%d1%80%d0%be%d1%86%d0%b5%d1%81%d1%81/Proiectedeactelegislative/tabid/61/LegislativId/4736/language/ro-RO/Default.aspx>

law¹² for completing a number of laws (Law on Access to Information, Law on Freedom of Expression, Law on Private Data Protection, Law on State Secrets, and Law on Press). This draft law was prepared by the WG of the previous legislature, and passing it would bring essential improvements in accessing public interest information;

- Amend the Elections Code by removing some provisions that make the work of broadcast media service providers difficult during election campaigns, being required to broadcast election debates live, at certain evening hours;
- To include media outlets in the list of beneficiaries of the mechanism for designating a percentage of individual income tax ("the 2% law"); introduce the concept of 'publications of social importance' in the law and to implement an indirect subsidizing system and a national system for granting state aids to such publications;
- The Broadcast Council should undertake concrete responsibilities for the protection of the domestic broadcast space against Russian propaganda interference; should continuously monitor relayed stations and impose sanctions that would discourage legal infringements, and should promote quality domestic audiovisual products, with emphasis on products in Romanian;
- The Ministry of Education, in cooperation with specialized nongovernmental organizations, should produce media literacy programs in the country's education institutions.

ENVIRONMENT

1. According to the Association Agreement signed between EU and the Republic of Moldova, environmental legislation of RM is harmonized step-by-step with the EU legislation in various fields. The Government Program of 14 November 2019 did not include any provision on environmental protection and climate change adjustment. The CSOs requested CHICU's Government to include commitments regarding the protection of the environment in its plans.¹³
2. As a result, the GAP includes a separate chapter no. IX on environmental protection and natural resources to implement the provisions of the Association Agreement stipulated in chapter 16. It provides 9 objectives related to assessing the environmental impact; prevention and full control of environmental pollution; efficient management and underground research; strengthening the integrated management of water resources; ensuring biosecurity's protection; expansion and sustainable management of forests,

¹² Draft law no. 290, 26 July 2018, <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/4337/language/ro-RO/Default.aspx>

¹³ Statement of the environmental CSOs on including the environmental protection and adaptation to climate change as a priority area in the Government Activity Program, November 2019, https://environment.md/uploads/files/206420e7269c0a753c7fadc8ff29a72b.pdf?fbclid=IwAR3n85de100BD1gR0_VorZkqv8PoS_TFkC9yPSFyEZp_D2szZZSPET_8xV8I; Declaration of the Moldovan National Platform of the Eastern Partnership Civil Society Forum Regarding the Activity Program of the Government of the Republic of Moldova, 6 December 2019, <https://www.eap-csf.md/en/ro-declaratia-platfomei-nationale-a-republicii-moldova-a-forumului-societatii-civile-din-parteneriatul-estic-cu-privire-la-programul-de-activitate-a-guvernului-republicii-moldova/>.

vegetation outside the forest and state protected areas; strengthening the legal framework for air protection and climate change; and ensuring integrated and sustainable management of waste and chemicals.

3. Progress indicators include:
 - 1300 ha of protection strips for rivers and arboreal water basins by the end of 2023;
 - 230 ha of forest curtains for the protection of agricultural lands created until the end of 2023;
 - approximately 700 km from the length of the anti-theft protection dams maintained annually;
 - 60 thousand people with access to water supply networks by the end of 2020;
 - 9900 state environmental controls organized annually;
 - 7,000 state environmental controls to economic agents, performed annually;
 - 3 events to promote the sanitation actions and to implement the extended producer's accountability, organized annually;
 - 18 500 of permits issued annually by the Environment Agency.

4. Thus, it is important to mention that even if the wish list according to the provisions of the Association Agreement is long and ambitious, without a clear institutional reform and functional Ministry of Environment with subordinated institutions, it will be impossible to implement the new legislation drafted within the agreement. There is a range of laws and regulations to be adopted during this period of time and also new regulations for the decentralized institutions of the Ministry of Agriculture, Regional Development and Environment of the Republic of Moldova. It is important to mention, that the new Ministry of Agriculture, Regional Development and Environment was created in 2017 after a strong opposition of the civil society to merge the Ministry of Environment with the Ministry of Agriculture, which is one of the main polluters of environment in Moldova. Still, the Ministry was formed, and the environment got even a less attractive place in the governmental agenda since 2017.

5. The implementation of the Law of Water, Law on Waste, Law on EIA, which came as a result of signing the Association Agreement demonstrates the fact, that a weak institutional framework in the field of environment can do nothing to implement the environmental legislation.

6. Here are some examples of it:
 - Even the country adopted the Law on Water, which entered into force on October 2013, which stipulates the new approach of integrated water resources management, still, there is no treatment of waste waters neither at the level of economic entities, nor at the level of municipalities; the Management Plans developed for the Basin Districts of Nistru River and Danube-Prut-Black Sea were developed and adopted but the level of implementation is very low
 - Law on Waste entered into force in December 2017, though, nothing was done in the country to put the Law into implementation; there is no separate collection of solid municipal waste (with a few examples only), the level of recycling is very low, LPAs do not adjust the collection systems of waste to a new approach of separate collection of waste, there is no collection of dangerous waste, and no implementation of extended producers responsibility

- The improvement of institutional framework in the field of environment was not finalized, thus such subordinated institutions as the Environmental Agency, which is responsible to implement the environmental legislation, issue authorisations and prove the level of pollution by the means of the Laboratory (which was not certified for more than a year, since the beginning of 2019), the Agency “Moldovan Waters” responsible for the implementation of the water legislation, the Forestry Agency Moldosilva, and the State Environmental Inspectorate are not operating properly and to the full potential, all these stagnating any progress in the field of environmental protection
7. There are 2 EU Programmes which were launched to help EaP countries to implement the 20 Deliverables for 2020 related to environment and climate change. Those are EU4 Environment and EU4 Climate Programmes. These are building capacities of the main stakeholders in the field of EIA and SEA implementation, resilience to climate change, prevention of illegal logging, improvement of management of protected areas and greening the economic sector in the EaP countries. EUWI + project foresees the implementation of integrated water resources management according to the EU Water Framework Directive. It is important to use those programmes in order to increase the environmental compliance and enforcement in the country and make the new legislation implemented.
 8. It is important to mention the transboundary cooperation, which is very needed in terms of managing transboundary watercourses with Ukraine and Romania. Thus in 2016, an agreement on rational use of Dniester River was signed between Moldova and Ukraine, which led to setting up a Moldo-Ukrainian Commission on a rational use of Dniester River. The Commission meets at least once a year, 2 meetings were held until the end of 2019. It puts into discussion the disputed issue of Novodnistrovsk hydropower plant built on the territory of Ukraine, which according to the Moldovan side, impacts the volume of water resources in the Dniester river, which is a basic source of drinking water for the 2/3 of the Moldovan population. The operation of the Commission is supported by the GEF project on the rational use of water resources in Dniester River, implemented by Ukraine, which will develop also a Transboundary Diagnostic Analysis and a Strategic Action Plan for Dniester River. Moldova in turn, will develop a study on environmental impact assessment, which will help figure out how much water resources Moldova needs for various purposes from Dniester River (drinking purposes, irrigation, industrial activities, aquaculture etc.). The study will be ready in summer 2020, while the Ukrainian side will finalize TDA and SAP in 2021. Again, it is important to use those instruments in order to implement the environmental legislation and the international agreements, which fully comply with the provisions of the Association Agreements of both Moldova and Ukraine.