

Overall Score:

**74 - Moderate**

Legal Framework Score:

**89 - Strong**

Actual Implementation Score:

**59 - Very Weak**

Category 1. Non-Governmental Organizations, Public Information and Media

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### 1.1. <sup>83</sup>Anti-Corruption Non-Governmental Organizations

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#### 1. Are anti-corruption/good governance NGOs legally protected?

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes | No

**Comments:**

Even though the Law on Public Associations does not specify directly the right to establish anti-corruption or good-governance nongovernmental organizations (NGOs), the spectrum of activity areas for public associations is very broad, and the restrictions to setting up NGOs are provided for in Art. 4.

**References:**

Law of the Republic of Moldova on Public Associations, No 837 of May 17, 1996

Monitorul Oficial al R.Moldova No 6/54 of Jan. 23, 1997

<http://www.e-democracy.md/en/legislation/publicassociations/i/>

Article 1.

(1) A public association is a voluntary, independent, self-governing formation, arising as a result of free and conscious will of citizens, joined together on the basis of common professional and other interests of their members for mutual realization of economic, social and cultural rights; it is not intended to produce financial gain. Objectives and goals of public associations are determined by its Charter, provisions and other acts (onwards – Charter) which are correctly registered.

(2) Public associations are considered to be mass public movements, women organizations, veteran organizations, organizations of individuals, peace, legal protection organizations, youth and children's organizations, scientific, ecological, technical, cultural, sports and other voluntary associations, creative unions, funds, associations of fellow-countrymen and other unions of citizens.

Article 4. Restrictions on the foundation and activity of public associations.

(1) It is not allowed to found public associations, whose goal or method of activity is a violent change of constitutional system, violation of territorial integrity of the Republic of Moldova, propaganda of war, violence and cruelty, stirring up social, class as well as racial, national and religious differences, accomplishment of other punishable acts.

(2) It is prohibited to organize public military associations and armed formations.

(3) The foundation and activity of public associations, infringing upon common to all mankind values, health, morals, social moral of population, rights and safeguarded by the Law interests of citizens, is prohibited.

**Yes:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

**No:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

**Comments:**

Article 30, letter (b) of the Law on Public Associations provides for the possibility for an NGO to accept donations and grants as revenue. Although it does not directly say about external grants, neither does it prohibit them.

**References:**

Law of the Republic of Moldova on Public Associations  
No 837 of 17.05.96  
Monitorul Oficial al R.Moldova No 6/54 of 23.01.1997  
<http://www.e-democracy.md/en/legislation/publicassociations/iv/>

Article 30. Sources for formation of the property of the public association.

Property of a public association are formed from:

- a. entrance and membership fees;
- b. voluntary donations and grants;
- c. receipts from delivering lectures, exhibitions, lotteries, auctions, sports and other activities;
- d. income from productive-economic, publishing and other entrepreneur activity;
- e. income from civil-legal operations;
- f. income from foreign trade operations;
- g. income from sponsors and benefactors (tax free) in accordance with the Law on philanthropy and sponsorship;
- h. other revenues which are not prohibited by the legislation.

**Yes:** A YES score is earned if anti-corruption/good governance NGOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**No:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

**Comments:**

There is no legal act that would oblige nongovernmental organizations (NGOs) to publicly disclose their sources of funding. Yet, some NGOs disclose their sources of funding, upon donors' request, but the information is rarely complete.

**References:**

Desk research of the legislation in force

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**Yes:** A YES score is earned if anti-corruption/good governance NGOs are required to publicly disclose their sources of funding.

**No:** A NO score is earned if no such public disclosure requirement exists.

## 2. Are anti-corruption/good governance NGOs able to operate freely?

83

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

### References:

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

Nations in Transit, 2010, Moldova final report, Freedom House, <http://www.freedomhouse.hu/images/Reports/NIT-2010-Moldova-final1.pdf>

**100:** NGOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** NGOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, NGOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

### Comments:

The participation of nongovernmental organizations (NGOs) is rather limited due to the NGOs' own reduced activism. This is mainly due to the short history of the democratic tradition in Moldova, and the unwillingness and reticence of the government to cooperate with civil society organizations (CSOs). So far, the government has scarcely understood the positive effects of cooperating with CSOs and has usually not accepted NGO input, despite the positive regard in which they are held by the international community.

Yet, there are a number of active NGOs that strive to make a change, but their proposals are not always or totally accepted by Parliament. (This is confirmed by the Study by the Center for Prevention and Analysis of Corruption).

There are a number of NGOs that try to enact a change, in various fields, and among these are:

Youth for Right to Life, <http://tdvmoldova.wordpress.com/despre-organizatie/>

Center for Analysis and Prevention of Corruption, <http://www.capc.md>

Association for Independent Press, <http://www.api.md>

Expert Group Think Tank, <http://www.expert-grup.org/>

Center for Investigative Journalism, <http://www.investigatii.md>

### References:

Study on the Effectiveness Mechanism of the Corruption Proofing of Draft Legislative Acts and other Regulatory Acts between 2006-2009, Center for Analysis and Prevention of Corruption, <http://www.capc.md/en/publications/>, July 2009

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** Non-governmental organizations focused on anti-corruption or good governance are an essential component of the political process. NGOs provide widely valued insights and have political power. Those NGOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | No

**Comments:**

Some verbal attacks and financial investigations were launched against nongovernmental organizations (NGOs) that have been carrying out electoral activities, but no NGO has been shut down.

**References:**

Nations in Transit, 2010, Moldova, Freedom House, pages 369-370

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**Yes:** A YES score is earned if there were no NGOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

**No:** A NO score is earned if any NGO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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### 3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

100

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes | No

**References:**

Nations in Transit 2010, Moldova, Freedom House, pages 369-370

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**Yes:** A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

**No:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes | No

**References:**

Nations in Transit, 2010, Moldova, Freedom House, pages 369-370

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**Yes:** A YES score is earned if there were no documented cases of NGO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

**References:**

Nations in Transit, 2010, Moldova, Freedom House, pages 369-370

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**Yes:** A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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#### 4. Can citizens organize into trade unions?

88

04a. In law, citizens have a right to organize into trade unions.

Yes | No

**References:**

Constitution of the Republic of Moldova of July, 29, 1994, Article 42, The Right of Establishing and Joining Trades-Unions:

(1) Any employee has the right to establish and join a trades-union in order to defend his/her interests.

Law on Trade Unions, No. 1129 from July 7, 2000:

Article 7. Right to associate in a trade union:

(1) Citizens of the Republic of Moldova and foreign citizens and stateless persons legally residing on its territory are entitled, to create and join trade unions in accordance with their statutes, without prior authorization from public authorities.

**Yes:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**No:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

**Comments:**

Trade unions are rare and for most part part inactive. Some chances for improvement are in place, as we can see from the Nation in Transit Report on Moldova for 2010, but it is rather early to talk about about serious change.

**References:**

Nations in Transit Report on Moldova 2010, Freedom House.

Confederation of Trade Unions,

<http://www.cnsm.md/index.php?lang=ro>

**100:** Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## 1.2. Media's Ability to Report on Corruption

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### 5. Are media and free speech protected?

100

05a. In law, freedom of the media is guaranteed.

Yes | No

**Comments:**

The state guarantees media's freedom of expression (Law of the Republic of Moldova on Freedom of Expression). Art. 5 of the same law prohibits media censorship and any intervention in the editorial policy of the media (except for cases provided for by the law). Censorship in public media as well as intended illegal hindering of media activity triggers criminal liability.

The same principle is stated in the Law of the Republic of Moldova on Press.

**References:**

Law of the Republic of Moldova on Freedom of Expression, No. 64, as of March 24, 2010

Law of the Republic of Moldova on Press, No. 243-XIII as of Oct. 26, 1994

**Yes:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

05b. In law, freedom of speech is guaranteed.

Yes | No

**Comments:**

"Any citizen is guaranteed the freedom of thought, opinion as well as public voicing of the latter, in words, images, or other means" (Constitution of the Republic of Moldova, adopted on July 29, 1994, Article 32).

"Any person is entitled to free speech" (Law of the Republic of Moldova on freedom of expression nr. 64 as of March 24, 2010, Article 3).

**References:**

Constitution of the Republic of Moldova, adopted on July 29, 1994, Article 32

Law of the Republic of Moldova on Freedom of Expression, No. 64, as of March 24, 2010

**Yes:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

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## 6. Are citizens able to form print media entities?

100

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no barriers for registration of a print media entity. There used to be cases when authorities impeded the activity of some press entities, through threats, seizure of equipment, but during the last year and half, no such cases were reported.

**References:**

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.ijc.md>), Monday, Nov. 8, 2010.

Nations in Transit 2010,

<http://www.freedomhouse.hu/images/Reports/NIT-2010-Moldova-final1.pdf>

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

No license is needed for print media. The only condition for activity is registration at the Ministry of Justice.

**References:**

Law of the Republic of Moldova on Press, No. 243-XIII as of Oct. 26, 1994:

Paragraph (1) Print media and press agencies' registration is performed by the Ministry of Justice.

Paragraph (2) Print media and press agencies start their activity from the moment of their registration.

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

**No:** A NO score is earned if there is no appeal process for print media licenses.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Law of the Republic of Moldova on Press, No. 243-XIII as of Oct. 26, 1994:

Paragraph (1) Print media and press agencies' registration is performed by the Ministry of Justice.

Paragraph (2) Print media and press agencies start their activity from the moment of their registration.

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.ijc.md>), Monday, Nov. 8, 2010

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

As licenses are not required, the only costs incurred by the organization are related to the registration, and they are minimal.

**References:**

Law of the Republic of Moldova on Press, No.. 243-XIII as of Oct. 26,1994:

Paragraph (1) Print media and press agencies' registration is performed by the Ministry of Justice.

Paragraph (2) Print media and press agencies start their activity from the moment of their registration.

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.jic.md>), Monday, Nov. 8, 2010

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 7. Are citizens able to form broadcast (radio and TV) media entities?

69

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no formal barriers for the creation of a broadcast media entity. However, licenses can only be obtained when a competition for available frequencies is announced by the Broadcasting Coordination Council. There have been alleged cases of corruption influencing the decision on granting the license.

The number of available frequencies is not known publicly and the Council usually offers little time for the preparation of the necessary dossier for the competition (which contains quite a number of documents).

In the first half of 2009, some radio stations had problems having their licenses renewed.

**References:**

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.jic.md>), Monday, Nov. 8, 2010.

Freedom House,

<http://www.freedomhouse.hu/images/Reports/NIT-2010-Moldova-final1.pdf>

Progress Report, Republic of Moldova 2009,

[http://ec.europa.eu/world/enp/pdf/progress2010/sec10\\_523\\_en.pdf](http://ec.europa.eu/world/enp/pdf/progress2010/sec10_523_en.pdf)

**100:** Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

Among the penalties handed down are temporary suspension and revocation of the license.

**References:**

1. Following a public contest (for obtaining broadcast licenses) the Audiovisual Coordinating Council will adopt a decision (...) that can be appealed in court. (Audiovisual Code of the Republic of Moldova, Law nr. 260-XVI as of July 27, 2006, Article 23, paragraph (10))

2. Any decision of the Audiovisual Coordinating Council regarding the application of a penalty can be appealed in court. (Audiovisual Code of the Republic of Moldova, Law nr. 260-XVI as of July 27, 2006, Article 38, paragraph (9))

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**No:** A NO score is earned if there is no appeal process for broadcast media licenses.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Broadcasting Code, the procedure of granting the license may take around 2 or 3 months from when the competition announcement is published.

**References:**

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.jjc.md>), Monday, Nov. 8, 2010.

Interview with Oleg Cristal, political editor at Publika TV (<http://www.publika.md>), Nov. 8, 2010

[http://cca.md/sites/default/files/Codul\\_Audiovizualului\\_25.11.2008.pdf](http://cca.md/sites/default/files/Codul_Audiovizualului_25.11.2008.pdf)

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

0: Licensing takes close to or more than one year for most groups.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The state tax for a broadcast media license is 2,500 lei (US\$220), but in addition to that, broadcasting media owners have to pay fees for transmission. Also, unofficial fees (i.e., bribes) to the Broadcasting Coordination Council are frequent.

**References:**

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.ijc.md>), Monday, Nov. 8, 2010.

Interview with Oleg Cristal, political editor at Publika TV (<http://www.publika.md>), Nov. 8, 2010

Law of the Republic of Moldova on licensing of some activities, No.451 as of July 30, 2001

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 8. Can citizens freely use the Internet?

88

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

It is generally not the case in Moldova that authorities prevent citizens from accessing certain websites. However, during the 2009 elections (particularly during mass protests following the elections), some websites were impossible to access: On April 9, 2009, the social networks Facebook.com and Odnoklassniki were blocked, and on April 10, information portals Unimedia, ProTV, JurnalTV and Jurnal de Chisinau could not be accessed.

**References:**

"Moldovan authorities have blocked the access to anti-governmental websites," electronic newspaper Cuget Liber, [http://www.cugetliber.ro/1239310800/ultima\\_ora/484/autoritatile-moldovene-au-blocat-accesul-la-siteurile-antiguvernamentale/](http://www.cugetliber.ro/1239310800/ultima_ora/484/autoritatile-moldovene-au-blocat-accesul-la-siteurile-antiguvernamentale/)

Report on the situation of the press in the Republic of Moldova, 2009, Independent Journalism Center; pages 18-19

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

During the last year, there were no cases of censoring online content by the government.

**References:**

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.ijc.md>), Monday, Nov. 8, 2010

Interview with Oleg Cristal, political editor at Publika TV (<http://www.publika.md>), Nov. 8, 2010

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

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## 9. Are the media able to report on corruption?

92

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes | No

**References:**

Paragraphs (1), (2), art. 6, Law on Freedom of Expression, March 24, 2010:

Any person has the freedom to receive public interest information through the means of the media. Protection of honor, dignity or professional reputation cannot prevail over the right of the public to receive important information.

**Yes:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**No:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

Self-censorship exists. During the last period, there were no cases of government censoring of corruption-related stories. However, on the one hand, journalists fear possible negative consequences, and on the other, they are not independent from politicians and businessmen; thus, they avoid publishing such information.

**References:**

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.ijc.md>), Monday, Nov. 8, 2010

Interview with Oleg Cristal, political editor at Publika TV (<http://www.publika.md>), Nov. 8, 2010

Progress Report, Republic of Moldova 2009,  
[http://ec.europa.eu/world/enp/pdf/progress2010/sec10\\_523\\_en.pdf](http://ec.europa.eu/world/enp/pdf/progress2010/sec10_523_en.pdf)

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Corina Cepoi, Project Director at the Center for Independent Journalism (<http://www.ijc.md>), Monday, Nov. 8, 2010.

Interview with Oleg Cristal, political editor at Publika TV (<http://www.publika.md>), Nov. 8, 2010

Progress Report, Republic of Moldova 2009,  
[http://ec.europa.eu/world/enp/pdf/progress2010/sec10\\_523\\_en.pdf](http://ec.europa.eu/world/enp/pdf/progress2010/sec10_523_en.pdf)

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

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

Yes | No

**References:**

Law of the Republic of Moldova on Press, nr. 243-XIII as of Oct. 26, 1994, Article 13, Paragraph (1):

Each issue of the periodic publication has to contain the following data:

a) name of the publication;

b) founder;

c) editor in chief;

(...)

Paragraph (2) The issue of unregistered publications or those not containing the data mentioned above is prohibited.

**Yes:** A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

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

Yes | No

**Comments:**

It is not mandatory to disclose the owners of the broadcast companies.

**References:**

Audiovisual Code of the Republic of Moldova, Law nr. 260-XVI as of July 27, 2006, Article 66, paragraph (6):

Private broadcast companies are obliged to inform the public name and the headquarters of the administration, name of the editor of programs and shows, signals of the radio stations and symbol of the TV station.

**Yes:** A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Cases of violation of journalism ethics are frequent; among these are hidden advertisements, violations of ethic rules in stories about children, etc.

A Press Council was created and is a media self-regulatory mechanism that aims at making every media outlet follow a series of overall accepted values (ethical principles). The Press Council is mainly responsible for settling amicably, and in a short time (two

to three months), conflicts arising between readers and the media. On its website, one can find the most recent cases (complaints) regarding violation of journalism ethics.

<http://consiliuldepresa.md/ro/cazuri/plangeri-solutionate.html>

**References:**

Interview with Corina Cepoil, Project Director at the Center for Independent Journalism (<http://www.ijc.md>), Monday, Nov. 8, 2010.

Interview with Oleg Cristal, political editor at Publika TV (<http://www.publika.md>), Nov. 8, 2010

Press Council,

[http://consiliuldepresa.md/cazuri/plangeri-depuse\\_17.html](http://consiliuldepresa.md/cazuri/plangeri-depuse_17.html)

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to “sell” favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

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

100 | **75** | 50 | 25 | 0

**Comments:**

In the current election campaign (for the upcoming November 28 elections), one can notice an improvement in the way that the media presents the political candidates. The recent monitoring reports show that the public TV station Moldova 1 was fair in granting all political candidates broadcasting time and not clearly favoring the ruling parties.

There are, still, private TV stations or press entities which are financed by political candidates and that openly produce propaganda in favor of the financier (such as NIT channel, Timpul newspaper, and others).

**References:**

Media Monitoring of the Election Campaign for the Early Parliamentary Elections of Nov. 28, 2010,

[http://www.ijc.md/eng/index.php?option=com\\_content&task=view&id=331&Itemid=1](http://www.ijc.md/eng/index.php?option=com_content&task=view&id=331&Itemid=1)

Resolution 1666 (2009) of the Parliamentary Assembly of the Council of Europe,

<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta09/ERES1666.htm>

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

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

**Comments:**

The recent monitoring reports show that the public TV station Moldova 1 and Radio Moldova were fair in granting all political candidates broadcasting time and not clearly favoring the ruling parties.

**References:**

Media Monitoring of the Election Campaign for the Early Parliamentary Elections of Nov. 28, 2010, [http://www.ijc.md/eng/index.php?option=com\\_content&task=view&id=331&Itemid=1](http://www.ijc.md/eng/index.php?option=com_content&task=view&id=331&Itemid=1)

Resolution 1666 (2009) of the Parliamentary Assembly of the Council of Europe, <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta09/ERES1666.htm>

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

**0:** The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

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## 11. Are journalists safe when investigating corruption?

100

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

Yes | No

**Comments:**

Several journalists were retained by the police during the mass protests following the April 2009 elections for a maximum of six hours.

**References:**

Report on the situation of the press in the Republic of Moldova, 2009, Independent Journalism Center; pages 18-19

Nations in Transit, Freedom House report, Moldova 2010, pages 11-12

**Yes:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**No:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

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

Yes | No

**Comments:**

The post-electoral period was marked by several assaults and threats made to anti-government journalists. Unknown individuals physically and verbally abused reporters and cameramen from the investigative Ziarul de Garda newspaper, Jurnal TV, and PRO TV Chisinau. Oleg Brega, reporter for Jurnal TV, was physically abused by two policemen, who also took his two cameras.

**References:**

Report on the situation of the press in the Republic of Moldova, 2009, Independent Journalism Center; pages 18-19

Nations in Transit, Freedom House report, Moldova 2010, pages 11-12, <http://www.freedomhouse.hu/images/Reports/NIT-2010-Moldova-final1.pdf>

**Yes:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**No:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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

Yes | No

**References:**

Report on the situation of the press in the Republic of Moldova, 2009, Independent Journalism Center

Nations in Transit, Freedom House report, Moldova 2010, pages 11-12, <http://www.freedomhouse.hu/images/Reports/NIT-2010-Moldova-final1.pdf>

**Yes:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**No:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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87  
1.3. Public Requests for Government Information

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12. Do citizens have a legal right to request information?

100

12a. In law, citizens have a right to request government information and basic government records.

Yes | No

**Comments:**

Anyone can search, receive and make public official information. Restrictions can only be applied for specific reasons that are in line with the principles of international law, including the protection of national security or a person's private life.

**References:**

Law of the Republic of Moldova regarding access to information, nr. 982, May 11, 2000, Article 4, paragraph (1), (2)

**Yes:** A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**No:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes | No

**Comments:**

If a person considers that his or her legal right regarding access to information has been violated, as well as if he or she is not satisfied with the received response, he or she can appeal the action or inaction of the respective provider of information in the competent court.

**References:**

Law of the Republic of Moldova regarding access to information nr. 982, May 11, 2000, Article 23, paragraph (1)

**Yes:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**No:** A NO score is earned if there is no such formal process.

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

Yes | No

**Comments:**

The articles describe how an interested party should request information, and the obligations that the provider of information is to follow.

**References:**

Law of the Republic of Moldova on Access to Information, No. 982-XIV, as of May 11, 2000, Articles 11 and 12

**Yes:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information system laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**No:** A NO score is earned if there is no such formal mechanism or institution.

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### 13. Is the right to information requests effective?

54

13a. In practice, citizens receive responses to information requests within a reasonable time period.

**Comments:**

The report shows that in 80 percent of the cases, there was a refusal to provide information by the public authorities. Only 15 percent of the requests were answered in due time, and other 4 percent were delayed.

The report is based on a comprehensive survey performed by around 20 experts. During the survey, 4,839 requests for information were sent to all state and public institutions, and responses were analyzed in details, or, where a response was missing, the team made phone calls to check whether a response will be made, etc.

Even though the report was developed in mid-2008, the present situation has not change considerably as of now, and this is demonstrated by a number of cases ruled by the court in favor of some NGOs against state authorities.

**References:**

Right to Information: On Paper and In Reality, Monitoring Report, Vasile Spinei, Alexandru Postica, Elena Vacarciuc, Mihail Guzun, Angela Danilescu, Mihail Lescu, Chisinau, 2008, page 63, [http://www.acces-info.org.md/upload/acces\\_info\\_final.pdf](http://www.acces-info.org.md/upload/acces_info_final.pdf)

Please also see cases:

Center for Investigative Journalism against Customs Service, nr. 3r-1039/09, ruled in favor of Victor Starosta against Police Commissariat Balti, nr. 3r-376/09, ruled in favor of the former.

Plus a number of other cases: ACCES INFO Buletin, nr. 22, <http://www.acces-info.org.md/upload/buletin22.pdf>

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

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

**Comments:**

While most records are free and can be obtained by mail, some records can be provided at a certain cost, which is not too expensive, and can be afforded by most citizens or nongovernmental organizations.

**References:**

Right to Information: On Paper and In Reality, Monitoring Report, Vasile Spinei, Alexandru Postica, Elena Vacarciuc, Mihail Guzun, Angela Danilescu, Mihail Lescu, Chisinau 2008, <http://www.acces-info.org.md/index.php?cid=165>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

From the only 20 percent of the responses received, about 80 percent are qualified by the experts as being complete responses, and other 20 percent as incomplete or formal.

**References:**

Right to Information: On Paper and In Reality, Monitoring Report, Vasile Spinei, Alexandru Postica, Elena Vacarciuc, Mihail Guzun, Angela Danilescu, Mihail Lescu, Chisinau 2008, page 63, <http://www.acces-info.org.md/index.php?cid=165>

**100:** Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

**75:**

**50:** Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

**25:**

**0:** The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

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

100 | 75 | 50 | 25 | 0

**Comments:**

An appeal within the institution where the information was requested is rarely resolved. Citizens have to file an action in court, where it may take more than two months to resolve.

**References:**

Right to Information: On Paper and In Reality, Monitoring Report, Vasile Spinei, Alexandru Postica, Elena Vacarciuc, Mihail Guzun, Angela Danilescu, Mihail Lescu, Chisinau 2008, <http://www.acces-info.org.md/index.php?cid=165>

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The appeals mechanism is affordable to middle-class citizens; the state fee for filing a case for protecting the right to access of information might go up to 200 lei (US\$17).

**References:**

Right to Information: On Paper and In Reality, Monitoring Report, Vasile Spinei, Alexandru Postica, Elena Vacarciuc, Mihail Guzun, Angela Danilescu, Mihail Lescu, Chisinau 2008, <http://www.acces-info.org.md/index.php?cid=165>

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The government does not usually give reasons for denying to give information, or the reasons can be superficial or even dismissive; such as, "We have more important issues to resolve."

**References:**

Right to Information: On Paper and In Reality, Monitoring Report, Vasile Spinei, Alexandru Postica, Elena Vacarciuc, Mihail Guzun, Angela Danilescu, Mihail Lescu, Chisinau 2008, see page 33, <http://www.acces-info.org.md/index.php?cid=165>

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

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Category 2. Elections

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2.1. <sup>79</sup>Voting and Party Formation

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14. Is there a legal framework guaranteeing the right to vote?

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes | No

**Comments:**

Until earlier this year, when changes to the Elections Code were made, persons convicted for having committed severe or extremely severe crimes or persons who were qualified as mentally disabled by a court were not allowed to vote (Article 13 of the Electoral Code of the Republic of Moldova, nr. 1381, as of Nov. 21,1997).

Currently, only the mentally disabled (and recognized as so by a court) cannot vote.

**References:**

Constitution of the Republic of Moldova, adopted on July 29, 1994, Article 38, paragraph (1):

State power is constituted by the will of its people. This will is expressed by free elections that take place periodically through universal, equal, direct, secret and freely expressed vote.

<http://www.protv.md/stiri/social/nu-prea-stiu-ce-inseamna-referendum-dar-au-mers-totusi-la-vot.html>

**Yes:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**No:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

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

Yes | No

**References:**

Constitution of the Republic of Moldova, adopted on July 29, 1994, Article 38, paragraph (1):

State power is constituted by the will of its people. This will is expressed by free elections that take place periodically through universal, equal, direct, secret and freely expressed vote.

2. Constitution of the Republic of Moldova, adopted on July 29, 1994, Article 63, paragraph (1):

The Parliament is elected for a period of 4 years (...)

**Yes:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**No:** A NO score is earned if no such framework exists.

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15. Can all citizens exercise their right to vote?

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

**Comments:**

During past elections, students had problems in exercising their right to vote because they had to vote according their temporary residence (most of them study in the capital city), or at their permanent residence, but they had to submit a request in order to confirm their place of voting. If they failed to do so in due time, they could not vote on election day.

During the last elections, this problem was solved through by stamping "ELECTIONS 29 JULY 2009" into the fiche from the ID card, thus avoiding possible multiple voting. Students could thus vote either at their permanent or temporary residence.

Also, there was noted a barrier to vote for Moldovan citizens abroad. They can vote only at Moldova's Embassies, and due to the fact that July 29 was a week day, and many of them were hundreds of kilometers away from an Embassy of Moldova, they could not exercise their vote.

At the same time, another long-term issue in this matter are those citizens of Moldova who reside in Transnistria, a separatist region, where Moldova is not able to organize polling stations. Here, Moldovans' efforts to travel to Moldovan-controlled territory is often hindered by Transnistrian officials.

**References:**

OSCE/ODIHR Final Report on July 29, 2009 Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>

Civic Coalition for Free and Fair Elections, LADOM Final Report on July 29, 2009, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

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

**Comments:**

Point 65 of the Venice Commission Opinion says:

Ballot papers will now bear both the electoral district number and the polling station number printed on them, according to a change to article 49(2). This replaces the previous practice on stamping the ballot at the polling station, which the amendments have removed [former Article 54(5)].

Earlier opinions have been critical of the stamp because it was applied after the ballot had been filled out by the voter. The new arrangement is, therefore, an improvement. It could, however, make the logistics for printing and distribution of ballot papers much more complicated.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office.

[http://www.venice.coe.int/docs/2008/CDL-AD%282008%29022-e.asp#\\_Toc212527205](http://www.venice.coe.int/docs/2008/CDL-AD%282008%29022-e.asp#_Toc212527205)

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Elections are held regularly in Moldova, with the exception of anticipated elections. This was the case of the 2001 anticipated parliamentary elections of July 29, 2009, and the Nov. 28, 2010, parliamentary elections. (These have to be anticipated because of the Parliament's failure to elect the president of the country). However, the Constitution and the Election Code provide for strict rules concerning the calling of new elections.

**References:**

<http://www.e-democracy.md/elections/parliamentary/2010/>

<http://www.e-democracy.md/elections/parliamentary/20092/>

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

---

## 16. Are citizens able to participate equally in the political process?

70

16a. In law, all citizens have a right to form political parties.

Yes | No

**References:**

Constitution of the Republic of Moldova, adopted on July 29, 1994, Article 41, paragraph (1):

Citizens can form themselves into parties and other socio-political movements, (...).

**Yes:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**No:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

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

Yes | No

**Comments:**

The right to be elected is guaranteed to all citizens of the Republic of Moldova who have the right to vote, respecting the law.

**References:**

Constitution of the Republic of Moldova, adopted on July 29, 1994, Article 38, paragraph (3)

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

**No:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The Election Code and the Law on Political Parties say that in order to register a political party, its members have to reside in at least half of the administrative-territorial units of 2nd level (i.e., rayons) and in each of these units, no less than 120 members have to be registered.

This provision hinders the registration of parties of large-size minorities (such as Gagauz, for example), who live in very concentrated areas and have no possibility of having members in 50 percent of the territory of Moldova.

**References:**

European Commission for Democracy through Law (Venice Commission), Joint Opinion on the Election Code Of Moldova, as of April 10, 2008, [http://www.venice.coe.int/docs/2008/CDL-AD%282008%29022-e.asp#\\_Toc212527205](http://www.venice.coe.int/docs/2008/CDL-AD%282008%29022-e.asp#_Toc212527205)

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office.

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Anyone can run for the political office. There are however, in law, age limitations for running for president and Parliament. In order to register as an independent candidate, a person has to accumulate 2,000 signatures of support, which is not a small number, but is not impossible to get. Otherwise, the costs of campaigning depend much on the campaign method chosen by the candidate.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office.

Final Report on monitoring the July 29, 2009, elections of the Civic Coalition for Free and Fair Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

OSCE/ODIHR Final Report of the Election Observation Mission for July 29, 2009 Parliamentary Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

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

100 | 75 | 50 | **25** | 0

**Comments:**

The opposition party can, theoretically, propose draft laws or introduce matters to vote, but the majority is not obligated to take them into account. Compared to other countries, where there is a practice of "hour of the opposition," or even "opposition's week," in Moldova there is no such practice. The current party in opposition has boycotted Parliament sessions in protest for over four months. Their vote is only required for amending constitutional laws (where two-thirds of deputies have to vote).

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

[http://www.moldova-suverana.md/index.php?subaction=showcomments&id=1268243006&archive=1268328906&start\\_from=&ucat=7&](http://www.moldova-suverana.md/index.php?subaction=showcomments&id=1268243006&archive=1268328906&start_from=&ucat=7&)

<http://newsmoldova.md/newsline/20100625/188030250.html>

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**

**0:** The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

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## 2.2. Election Integrity

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17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes | No

**References:**

Election Code of the Republic of Moldova, nr. 1381-XIII, as of Nov. 21, 1997, article 16, paragraph (1):

The Central Electoral Commission is the state authority that implements the election policy, organizes and carries on the elections.

Website of the Commission, <http://www.cec.md/f-ComisiaCentrala/Main.aspx>

Election Code of the Republic of Moldova, nr. 1381-XIII, as of Nov. 21, 1997, article 14, paragraph (1):

The Electoral Commission is assisted in its work by Electoral District Councils and Electoral Offices of the Polling Stations.

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**No:** A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

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## 18. Is the election monitoring agency effective?

75

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

Yes | No

**Comments:**

The Central Election Commission (CEC) is an independent structure, a legal entity with its own budget and bank account. It has nine members, of whom one is designated by the president and others are designated by the Parliament (respecting the proportionality between majority and opposition). During their mandate, the members of CEC cannot be members of political parties, cannot participate in political activities and cannot make any statements in favor of any election candidates.

**References:**

Election Code of the Republic of Moldova, nr. 1381-XIII, as of Nov. 21, 1997

**Yes:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

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

**Comments:**

Seven of the nine members of the Central Electoral Commission are nominated by Parliament, i.e. by the parties represented there, proportionally to the number of seats they have. Thus, the composition of the Commission is a political consensus, and obviously the individuals appointed have party loyalties. A similar procedure follows the creation of district election councils and polling stations. Yet, the members of the polling station, for instance, cannot be members of any political party.

**References:**

Final Report on monitoring the July 29, 2009 elections of the Coalition for Free and Fair Elections, page 15, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

OSCE/ODIHR Final Report of the Election Observation Mission for July 29, 2009, Parliamentary Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>, page 5

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

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

**Comments:**

Only the Central Electoral Commission has permanent full-time staff: nine members with a mandate of five years and a supporting secretariat. The district election councils and polling stations are formed for each election round. Many of the persons designated for the district election councils and polling stations have previous experience in elections, and each time, special trainings are provided. Yet, some irregularities are observed, as the Organization for Security and Cooperation in Europe (OSCE) report mentions, due to lack of sufficient knowledge or experience of some of the members.

**References:**

Final Report on monitoring the July 29, 2009 elections of the Coalition for Free and Fair Elections, page 15, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

OSCE/ODIHR Final Report of the Election Observation Mission for July 29, 2009 Parliamentary Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>, page 5

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

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

**Comments:**

At the most recent elections, the reports were submitted in due time by the polling stations to the Central Electoral Commission, which published all information on its website without delay.

**References:**

Final Report on monitoring the July 29, 2009 elections of the Coalition for Free and Fair Elections, page 15, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

OSCE/ODIHR Final Report of the Election Observation Mission for July 29, 2009 Parliamentary Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>, page 5

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

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

**Comments:**

The Central Electoral Commission unfortunately cannot, by law, impose sanctions (except for a warning). It can only issue recommendations to a party or cancel its registration (However, canceling the registration is only possible with a Supreme Court of Justice decision).

However, the Commission was quite active during the most recent elections in referring the cases for investigation to relevant institutions. One case was referred to the Ministry of Finance, one to the Police, seven to the Prosecutor's Office and five to the Broadcasting Coordinating Council.

During the current elections (anticipated Parliamentary elections on Nov. 28, 2010) the commission asked the Center for Combating Economic Crimes and Corruption and the Tax Inspectorate to check the financial reports of the candidates, as several cases arose where jobless persons were indicated as having donated huge amounts of money to the Communist and the Democratic Parties.

**References:**

Final Report on monitoring the July 29, 2009 elections of the Coalition for Free and Fair Elections, page 15, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

OSCE/ODIHR Final Report of the Election Observation Mission for July 29, 2009 Parliamentary Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>, page 14

ProTV, news, Oct. 28, 2010

<http://www.protv.md/stiri/politic/scandal-in-jurul-finantarii-partidelor-in-campania-electoral.html>

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

## 19. Are elections systems transparent and effective?

79

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

100 | 75 | 50 | 25 | 0

### Comments:

The law provides that the election lists should be published at the polling stations at least 20 days before the elections. At the July 2009 elections, however, only 25 percent of the stations published the lists on time; the rest published them with delay, and a few did not publish them at all, or only when observers insisted.

For the current elections, the Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) report mentions that voter lists remain a concern, as there is no effective way to cross check voters lists for duplicate entries. There is a number of ways in which voters can be added to supplementary lists on election day.

### References:

Final Report on monitoring the July 29, 2009 elections of the Coalition for Free and Fair Elections, page 15, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

OSCE/ODIHR Final Report of the Election Observation Mission for July 29, 2009 Parliamentary Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>, page 5

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and "ghost" voting by non-existent voters is common.

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

Yes | No

### Comments:

Voters and election candidates can challenge the actions/inactions or decisions of the elections offices and councils and those of the electoral candidates. Submission of the complaint to the court must be preceded by a complaint to the hierarchically superior electoral body.

### References:

Election Code of the Republic of Moldova, nr. 1381-XIII, as of Nov. 21, 1997, article 65, paragraph (1)

**Yes:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**No:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The legality of the July 2009 elections was officially contested only by The Popular Christian Democrat Party (PPCD), which asked the Constitutional Court to order the vote recount, but the request was rejected. The Court rejected the request on the ground that no evidence that would support the need of votes recalculation was presented.

**References:**

AZI.md, Aug. 4, 2009:

"The votes will not be recalculated as per request of PPCD"

<http://www.azi.md/ro/story/4936>

General information about the 2009 anticipated parliamentary elections, by ADEPT (Association for Participatory Democracy). <http://www.e-democracy.md/elections/parliamentary/20092/info/>

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Generally, the military and security forces refrain from influencing the voters one way or another. They have to ensure public order during Election Day, but cannot come closer than 100 meters from the polling stations. However, exceptions to this were noted during the April 2009 elections. No such cases were identified in the July elections.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office.

Final Report on monitoring the July 29, 2009 elections of the Civic Coalition for Free and Fair Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

OSCE/ODIHR Final Report of the Election Observation Mission for July 29, 2009 Parliamentary Elections, <http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

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

Yes | No

**References:**

Election Code of the Republic of Moldova, nr. 1381-XIII, as of Nov. 21, 1997, article 63.  
Both national and international observers are allowed to monitor the electoral process.

Regulation regarding the status and the procedure of accreditation of observers, adopted through Central Election Commission Decision nr. 332 as of Oct. 24, 2006,  
[http://www.cec.md/j-ComisiaCentrala/main.aspx?dbID=DB\\_Observator471](http://www.cec.md/j-ComisiaCentrala/main.aspx?dbID=DB_Observator471)

**Yes:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**No:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Some election observers complained about several members of the polling stations who prohibited them to move freely around the polling station and observe the election process from any point.

It is worth mentioning that during the last elections, the European Network for Election Monitoring Organizations requested the accreditation of 140 observers. The government refused to accredit 87 of them. Some from those accredited were delayed for hours in the airport, or checked by the police, etc.

**References:**

Final Report on monitoring the July 29, 2009 elections of the Civic Coalition for Free and Fair Elections,  
<http://www.e-democracy.md/files/elections/parliamentary2009/final-report-ladom-elections-july-2009-ro.pdf>

OSCE/ODIHR Final Report of the Election Observation Mission for July 29, 2009 Parliamentary Elections,  
<http://www.e-democracy.md/files/elections/parliamentary2009/final-report-osce-elections-july-2009-en.pdf>

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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## 20. Are there regulations governing the financing of political parties?

100

20a. In law, there are limits on individual donations to political parties.

Yes | No

### Comments:

An individual's contribution to one or more political parties can not exceed 500 medium salaries established for the respective year, during one budget year.

### References:

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, article 26, paragraph (3)

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes | No

### Comments:

Corporate contributions to one or more political parties can not exceed 1,000 medium salaries established for the respective year, during one budget year.

### References:

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, article 26, paragraph (4)

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

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

Yes | No

### Comments:

Political parties which during the election campaign exceed the limit of expenditures (...) lose their right to be financed from the state budget.

### References:

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, article 28, paragraph (3)

**Yes:** A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

**No:** A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes | No

**Comments:**

Point 6 of this regulation says that political parties are obligated to weekly publish their contributions and other sources of incomes in national-scale publications and shall present the financial reports to the Central Electoral Commission once every two weeks.

**References:**

Regulation on financing of election campaigns and political parties, Decision of the Central Election Commission nr. 3336 as of July 16, 2010,  
<http://www.e-democracy.md/elections/parliamentary/2010/cec/regulamentul-finantarea/>

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes | No

**Comments:**

Political parties shall submit yearly financial reports to the Court of Audit and to the Ministry of Finance. The part of the report regarding the financing from the state budget will be verified by the Court of Audit, and the one regarding other contributions by the Ministry of Finance, through its subordinated institutions.

The primary audit is performed by the Central Electoral Commission during election campaigns. The commission can request an in-depth audit from other bodies if irregularities are uncovered.

**References:**

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, article 30, paragraphs (1) and (2)

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes | No

**Comments:**

On the date of registration, and further on, every two weeks till the end of the election campaign, the political parties shall submit

financial reports to the Central Election Commission. (...) If irregularities are uncovered during the verification performed by authorized bodies upon the request of the Central Election Commission, the latter can submit a request to the Supreme Court of Justice to cancel the registration of the respective candidate. (...)

**References:**

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, article 31, paragraphs (2) (3)

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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## 21. Are there regulations governing the financing of individual political candidates?

100

21a. In law, there are limits on individual donations to political candidates.

Yes | No

**Comments:**

An individual's contribution to one or more political parties cannot exceed 500 medium salaries established for the respective year, during one budget year. This law does not provide for any limit for financing independent candidates.

There is no law regulating the independent candidates separately; nor does the Elections Code say anything about this limit. Thus, there is only an overall limit of 2,166,444 Lei, (US\$180,000), established for the November 2010 elections, for a candidate's expenditures. This means that this amount can be donated by any natural person or legal entity.

**References:**

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, article 26, paragraph (3), <http://www.e-democracy.md/elections/parliamentary/2010/electoral-news/20101005/>

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes | No

**Comments:**

An individual's contribution to one or more political parties cannot exceed 500 medium salaries established for the respective year, during one budget year. This law does not provide for any limit for financing independent candidates.

There is no law regulating the independent candidates separately; nor does the Elections Code say anything about this limit. Thus, there is only an overall limit of 2,166,444 Lei, (US\$180,000), established for the November 2010 elections, for a candidate's expenditures. This means that this amount can be donated by any natural person or legal entity.

**References:**

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, article 26, paragraph (3), <http://www.e-democracy.md/elections/parliamentary/2010/electoral-news/20101005/>

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes | No

**Comments:**

Point 6 of this Regulation says that political candidates are obligated to weekly publish their contributions and other sources of incomes in national-scale publications and shall present the financial reports to the Central Electoral Commission once in two weeks.

**References:**

Regulation on financing of election campaigns and political parties, Decision of the Central Election Commission nr. 3336 as of July 16, 2010,  
<http://www.e-democracy.md/elections/parliamentary/2010/cec/regulamentul-finantarea/>

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | No

**Comments:**

On the date of registration, and then every two weeks until the end of the election campaign, the political parties shall submit financial reports to the Central Election Commission. (...) If irregularities are uncovered, the Election Commission will ask the Tax Inspectorate, the Courts of Audit or the Center for Combating Economic Crimes and Corruption to audit the reports.

The weak chain in the system is that the Central Election Commission does not audit the reports as such at all, it just reacts to the complaints from other political candidates or interested parties.

Although this law relates to political parties, it is applied to independent candidates as well.

**References:**

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21. 2007, article 31, paragraph (2)(3)

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

Yes | No

**Comments:**

On the date of registration, and from then on, every two weeks until the end of the election campaign, the political parties shall submit financial reports to the Central Election Commission. (...)

Although this law relates to political parties, it is applied to independent candidates as well.

**References:**

Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, article 31, paragraphs (2) and (3)

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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## 22. Are the regulations governing the political financing of parties effective?

42

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Each candidate is obligated to open a special bank account called an "election fund" and use resources exclusively from this account in order to finance the campaign and party activities. Thus, all income and spending from these accounts is transparent.

A contribution equivalent to 500 average salaries is a sufficient amount compared to overall parties' spending in previous campaigns. Yet, there are quite often cases of cash payments to supporters in the country, or gas (petrol) tickets, etc.

**References:**

Preventing Political Corruption through regulating the financing of the political parties and election campaigns, Efim OBREJA, Transparency International Moldova, 2007.

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office.

Regulation on financing of election campaigns and political parties, Decision of the Central Election Commission nr. 3336 as of July 16, 2010, <http://www.e-democracy.md/elections/parliamentary/2010/cec/regulamentul-finantarea/>

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

A contribution equivalent to 1,000 average salaries is a sufficient amount compared to overall parties' spending in previous campaigns. Yet, there are quite often cases of other types of contributions, so that not all of the income is officially visible, particularly in cases where parties intend to go beyond the total limit of spending in a campaign.

**References:**

"Preventing Political Corruption through regulating the financing of the political parties and election campaigns," Efim Obreja, Transparency International-Moldova, 2007.

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>), Nov. 2, 2010, ADEPT office.

Regulation on financing of election campaigns and political parties, Decision of the Central Election Commission nr. 3336 as of July 16, 2010, <http://www.e-democracy.md/elections/parliamentary/2010/cec/regulamentul-finantarea/>

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**Comments:**

The limit is set at the start of each election campaign. In the current elections, the limit for political parties is 21,664,445 lei (US\$1.8 million), which, in local market prices is quite enough. This is an increased threshold though, compared to previous elections.

The Electoral Commission was motivated to allow this increase by the European practice where the calculation goes as follows: Euro 0.5 (US\$0.70) per voter for political parties and Euro 0.05 (US\$0.07) for independent candidates. Even though during the July 2009 elections, the maximum amount accumulated in one party's election fund was 7.5 million lei (US\$629,195), experts say several parties spend by far more than they officially declare.

Currently there is an initiative by some nongovernmental organizations to try to calculate overall expenses of major parties that participate in the elections and compare the figures to the ones the parties show in the reports.

**References:**

Preventing Political Corruption through regulating the financing of the political parties and election campaigns, Efim OBREJA, Transparency International Moldova, 2007.

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>), Nov. 2, 2010, ADEPT office.

Regulation on financing of election campaigns and political parties, Decision of the Central Election Commission nr. 3336 as of July 16, 2010, <http://www.e-democracy.md/elections/parliamentary/2010/cec/regulamentul-finantarea/>

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

During the current elections (anticipated Parliamentary elections on Nov. 28, 2010) the Central Electoral Commission asked the Center for Combating Economic Crimes and Corruption and the Tax Inspectorate to check the financial reports of the candidates because several cases arose where jobless persons were indicated as having donated huge amounts of money to the Communist and the Democratic Parties.

Unfortunately the commission only starts investigations upon complaints from other candidates or persons.

**References:**

ProTV, news, Oct. 28, 2010,  
<http://www.protv.md/stiri/politic/scandal-in-jurul-finantarii-partidelor-in-campania-electoral.html>

Unimedia.md, Oct. 29, 2010,  
<http://unimedia.md/?mod=news&id=25419>

Ziarul de Garda, "Financing of parties — generally accepted lies," Sept. 9, 2010  
<http://www.zdg.md/politic/finantarea-partidelor-falsuri-general-acceptate>

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

During the current elections (anticipated Parliamentary elections on Nov. 28, 2010) the Central Electoral Commission asked the Center for Combating Economic Crimes and Corruption and the Tax Inspectorate to check the financial reports of the candidates because several cases arose where jobless persons were indicated as having donated huge amounts of money to the Communist and the Democratic Parties.

Unfortunately the Commission cannot penalize offenders, only issue a warning. A party registration may be canceled in cases where such violations are uncovered, but only based on a decision of the Supreme Court of Justice.

Many parties often use random persons to indicate them as "sponsors" in their financial reports. The big mistake of the Moldovan authorities is that they perform this audit only during election periods, and do not check further, when the respective persons, and generally all sponsors of the political parties, submit their yearly reports to the tax inspectorate.

**References:**

ProTV, news, Oct. 28, 2010,  
<http://www.protv.md/stiri/politic/scandal-in-jurul-finantarii-partidelor-in-campania-electoralala.html>

Unimedia.md, Oct. 29, 2010,  
<http://unimedia.md/?mod=news&id=25419>

Ziarul de Garda, "Financing of parties — generally accepted lies," Sept. 9, 2010,  
<http://www.zdg.md/politic/finantarea-partidelor-falsuri-general-acceptate>

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

During the current elections (anticipated Parliamentary elections on Nov. 28, 2010) the Central Electoral Commission asked the Center for Combating Economic Crimes and Corruption and the Tax Inspectorate to check the financial reports of the candidates because several cases arose where jobless persons were indicated as having donated huge amounts of money to the Communist and the Democratic Parties.

Within the Central Electoral Commission there is a Finance and Audit Division, but the audit performed on the reports of both political parties and independent candidates is extremely superficial. It does not have the necessary resources and information to do an in-depth check of the reports. Further, the Commission will start investigations only upon the complaint/request of other candidates.

The big flaw of the Moldovan auditing practice is that they perform this audit only during elections period and do not check further when the respective persons, and generally all "sponsors" of the political parties, submit their yearly reports to the tax inspectorate.

**References:**

ProTV, news, Oct. 28, 2010,  
<http://www.protv.md/stiri/politic/scandal-in-jurul-finantarii-partidelor-in-campania-electoralala.html>

Unimedia.md, Oct. 29, 2010,  
<http://unimedia.md/?mod=news&id=25419>

Ziarul de Garda, "Financing of parties — generally accepted lies," Sept. 9, 2010  
<http://www.zdg.md/politic/finantarea-partidelor-falsuri-general-acceptate>

**100:** Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

### 23. Are the regulations governing the political financing of individual candidates effective?

45

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

**Comments:**

The law does not provide for any limit on financing independent candidates. There is only an overall limit of 2,166,444 Lei, (US\$180,000), established for this year's November elections, for a candidate's expenditures. This means that this amount can be donated by any natural person or legal entity.

This limit is enough for financing a candidate's campaign; the threshold is actually rather high, considering that the donation can be made by one source, be that a legal entity or a person.

**References:**

Regulation on financing of election campaigns and political parties, Decision of the Central Election Commission nr. 3336 as of July 16, 2010, <http://www.e-democracy.md/elections/parliamentary/2010/electoral-news/20101005/>

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md/>, Nov. 2, 2010, ADEPT office

"Preventing Political Corruption through regulating the financing of the political parties and election campaigns," Efim Obreja, Transparency International-Moldova, 2007.

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

**Comments:**

The law does not provide for any limit on financing independent candidates. There is only an overall limit of 2,166,444 Lei (US\$180,000), established for this year's November elections, for a candidate's expenditures. This means that this amount can be donated by any natural person or legal entity.

This limit is enough for financing a candidate's campaign; the threshold is actually rather high, considering that the donation can be made by one source, be that a legal entity or a person.

**References:**

Regulation on financing of election campaigns and political parties, Decision of the Central Election Commission nr. 3336 as of July 16, 2010,

<http://www.e-democracy.md/elections/parliamentary/2010/electoral-news/20101005/>

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>), Nov. 2, 2010, ADEPT office

"Preventing Political Corruption through regulating the financing of the political parties and election campaigns," Efim Obreja, Transparency International-Moldova, 2007

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Central Electoral Commission, which is responsible for monitoring the financial reports of the political parties, is in the same way responsible for following the financing of the independent candidates. Where necessary, it initiates investigations. However, the Commission only starts investigations in response to complaints from other candidates or persons.

Independent candidates are rather weak in Moldova. In 20 years of independence, no independent candidate has entered Parliament. As a rule, they rely on their own finances.

**References:**

ProTV, news, Oct. 28, 2010,

<http://www.protv.md/stiri/politic/scandal-in-jurul-finantarii-partidelor-in-campania-electoral.html>

Unimedia.md, Oct. 29, 2010, <http://unimedia.md/?mod=news&id=25419>

Ziarul de Garda, "Financing of parties — generally accepted lies," Sept. 9, 2010

<http://www.zdg.md/politic/finantarea-partidelor-falsuri-general-acceptate>

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, thought limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The Central Electoral Commission, which is responsible for monitoring the financial reports of the political parties, is in the same way responsible for following the financing of the independent candidates. Where necessary, it initiates investigations.

However, the Commission only starts investigations upon complaints from other candidates or persons. The only penalty the Commission can impose is a warning. Canceling a candidate's registration can be done only through a decision of the Supreme Court of Justice.

**References:**

ProTV, news, Oct. 28, 2010,  
<http://www.protv.md/stiri/politic/scandal-in-jurul-finantarii-partidelor-in-campania-electoralala.html>

Unimedia.md, Oct. 29, 2010,  
<http://unimedia.md/?mod=news&id=25419>

Ziarul de Garda, "Financing of parties — generally accepted lies," Sept. 9, 2010  
<http://www.zdg.md/politic/finantarea-partidelor-falsuri-general-acceptate>

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Within the Central Electoral Commission, there is a Finance and Audit Division. However, the audit performed on the reports of both political parties and independent candidates is extremely superficial. The commission does not have the necessary resources and information to do an in-depth check of the reports. Further, the Commission will start investigations only in response to the complaints or requests of other candidates.

**References:**

ProTV, news, Oct. 28, 2010,  
<http://www.protv.md/stiri/politic/scandal-in-jurul-finantarii-partidelor-in-campania-electoralala.html>

Unimedia.md, Oct. 29, 2010,  
<http://unimedia.md/?mod=news&id=25419>

Ziarul de Garda,  
"Financing of parties – generally accepted lies", Sept. 9, 2010  
<http://www.zdg.md/politic/finantarea-partidelor-falsuri-general-acceptate>

**100:** The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

**75:**

**50:** The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

## 24. Can citizens access records related to the financing of political parties?

50

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

According to the Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, the parties shall only submit yearly reports to the Courts of Audit, Ministry of Finance and Ministry of Justice. Only during election campaigns do parties submit financial reports every second week.

### References:

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

100: Political parties disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

According to the Law of the Republic of Moldova on Political Parties, nr. 294-XVI, as of Dec. 21, 2007, the parties are not obliged to publicly disclose their financial reports, except during election campaigns.

### References:

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

As parties are not obliged to publish their yearly reports, none of the web sites of the major political parties has at least a subsection related to its financing. The reports during the election campaign, however, are submitted regularly to the Election Commission and are accessible on the latter's web site.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>), Nov. 2, 2010, ADEPT office

<http://www.pldm.md/>

<http://www.pdm.md/>

[http://www.pcrm.md/main/index\\_md.php](http://www.pcrm.md/main/index_md.php)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The yearly reports are unavailable to the public. Those published during the election campaign are done according to the law and quite complete.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>), Nov. 2, 2010, ADEPT office

**100:** Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

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25. Can citizens access records related to the financing of individual candidates' campaigns?

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law on Political Parties, which obligates parties to submit yearly financial reports, refers to parties only. Thus, the only regulation we can find about independent candidates is article 38 of the Election Code, which says that all candidates shall disclose their sources of financing weekly and submit reports to competent authorities each second week (applicable only during election campaigns).

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

**100:** Individual candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

During an election campaign, all candidates submit reports to the Electoral Commission twice a month. The Commission publishes the reports on its website. However, some candidates fail to submit the reports on time (as can be observed in the current campaign; on November 1, only one independent candidate submitted a financial report).

**References:**

[http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB\\_Rapoartele\\_Financiare433](http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Rapoartele_Financiare433)

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports can be accessed online on the website of the Electoral Commission or can be obtained at its office, at the cost of photocopying.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

[http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB\\_Rapoartele\\_Financiare433](http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Rapoartele_Financiare433)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports correspond to the legal requirements and present all necessary information (incomes and expenditures). In case irregularities are found, the Electoral Commission asks the candidate to supply additional information.

**References:**

[http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB\\_Rapoartele\\_Financiare433](http://www.cec.md/i-ComisiaCentrala/main.aspx?dbID=DB_Rapoartele_Financiare433)

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

**100:** Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

### 3.1. Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

26. In law, can citizens sue the government for infringement of their civil rights?

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes | No

**References:**

In general, the grounds, the procedure and the effects of filing a case against the Government is regulated by a special law, the Law of the Republic of Moldova on administrative contentions, nr. 793-XIV as of Feb. 10, 2000.

Specific cases when citizens can sue the government are mentioned in a number of other laws, such as the Criminal Procedure Code, Civil Procedure Code, etc.

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**No:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

27. Can the chief executive be held accountable for his/her actions?

69

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

The development and adoption of policy decisions is regulated by the Law on Normative Acts nr. 317-XV as of July 18, 2003; the Law on Transparency in the Decision Making Process, nr. 239-XVI as of Nov. 13, 2008; and the Government Decision on Rules of Development and Unified Standards of Policy Documents, nr.33 as of Jan. 11, 2007.

The current government usually gives reasons for policy decisions, and ministers try to always answer journalists' questions right after the adoption of a policy act. There is no practice, however, to hold regular press conferences (once a month for instance) where the prime minister would give explanations to various issues raised by the media.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

<http://www.rapc.gov.md/md/law/>

"Evaluating the results of the implementation of the Central Public Administration Reform in Moldova," Corneliu Popovici et al., Chisinau 2010

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

Yes | No

**Comments:**

The only exception are the above-mentioned acts that have an individual character (i.e. addressing one person, one legal entity, etc.)

**References:**

Law of the Republic of Moldova on Constitutional Court, nr. 317-XIII, as of Dec. 13,1994, article 4, paragraph 1, sub-point a):

The Constitutional Court conducts, upon request, hearings on the control of constitutionality of laws, regulations, decisions of Parliament, decrees of the Presidents, decisions of the Government (...).

**Yes:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

The Constitutional Court cannot, on its initiative, start a review of a normative act. It can only react to requests by the Government, president, minister of Justice, Supreme Court of Justice, etc. Other courts may, however, review the acts of the executive if someone's rights are violated, but only upon a request, not ex officio.

**References:**

Judicial Reform Index for Moldova, American Bar Association, June 2009, page 43,  
[http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

**Comments:**

The law is very strict about the issuing of executive orders by the prime minister (which is called "ordonante"), and it does not allow for abuse.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

Article 106/2 of the Constitution

Article 11 of the Law on Normative Acts of the Government (...) nr. 317-XV as of July 18, 2003

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

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## 28. Is the executive leadership subject to criminal proceedings?

50

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes | **No**

**Comments:**

The president of the Republic of Moldova has immunity and can be charged or prosecuted only if his immunity is lifted, by two-thirds of the elected members of Parliament. The prime-minister, however, does not have such an immunity.

**References:**

Constitution of the Republic of Moldova, adopted on July 29, 1994, Article 81, paragraphs (2), (3).

**Yes:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

**Yes** | No

**References:**

There is no legislative act that provides for immunity to executive leadership. Thus, the general rules apply, as they do for ordinary citizens.

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**No:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

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## 29. Are there regulations governing conflicts of interest by the executive branch?

53

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

Yes | No

**Comments:**

Asset disclosure forms shall be submitted by the president of the Republic of Moldova, Members of the Parliament, Government. (...) These are submitted yearly.

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, articles 3 and 8.

**Yes:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes | No

**Comments:**

Article 3 specifies all persons who need to submit an asset disclosure form. Among these are also vice-ministers and head of departments and heads of various services and agencies. At the end, this article states "and all other civil servants not mentioned above."

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, article 3.

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**No:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes | No

**Comments:**

Civil servants shall not receive gifts if these are linked with the performance of their duties (except for official protocol). This law says that the value of a gift should not exceed an average salary per country. Yet, the Code of Conduct of the civil servants says the limit is the minimum wage in the country.

This rule addresses all public officials.

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb. 15, 2008, article 23

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

Yes | No

**Comments:**

The auditing of the asset disclosure forms of the executive branch is performed by the Central Control Commission. If the Commission uncovers irregularities, it sends the file to the Center for the Fight against Economic Crimes.

The Commission is an autonomous body which is formed of nine members, designated by the Parliament (3), president (3) and the Government (3).

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, articles 9 and 10

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Yes | No

**Comments:**

The only restrictions concern the restriction on employment for one year after leaving the job by the administration or control structures of companies over which the respective person exercised surveillance and control.

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb. 15, 2008, article 23.

**Yes:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that

directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law of the Republic of Moldova on Conflict of Interest, 16-XVI as of Feb. 15, 2008, is not being enforced. The practice of submitting personal conflict of interest forms is not in place and the Ethics Committee envisaged by the law has not yet been created.

**References:**

Monitoring the anti-corruption policies in the Republic of Moldova, Transparency International-Moldova, November 2009, <http://www.transparency.md/content/blogcategory/16/48/4/8/lang/en/>

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate “cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The legal provision regarding the possibility of accepting gifts that amount to an average wage creates favorable conditions for the flourishing of the small-scale corruption.

**References:**

Monitoring the anti-corruption policies in the Republic of Moldova, Transparency International Moldova, November 2009, <http://www.transparency.md/content/blogcategory/16/48/4/8/lang/en/>

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

As one can see from the report, the auditing performed by the Departmental Control Commission is in place, but it cannot be considered very professional as only a very few of the public institutions' Control Commissions have databases containing the assets disclosure forms. The Control Commission does not have access to information to perform the auditing, and can only request other institutions to do that. However, due to limited time, it cannot do that.

Further on, the reports show that from the total number of disclosure forms sent by the Commissions to the Center for Combating Economic Crimes and Corruption, the latter did not perform even one audit during the period 2003-2008.

**References:**

Study on disclosure of assets and income of high level public authorities, judges, prosecutors (...), Center for Analysis and Prevention of Corruption, March 2009, Chisinau, [http://www.capc.md/docs/Study\\_declaration\\_of\\_assets\\_and\\_income.pdf](http://www.capc.md/docs/Study_declaration_of_assets_and_income.pdf) , see pages 118-122

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>). Oct. 25, 2010, Chisinau  
Oct. 25, 2010, Chisinau

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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### 30. Can citizens access the asset disclosure records of the heads of state and government?

75

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes | No

**Comments:**

Asset disclosure forms submitted by the president, members of the government, parliament, judges (...) are published in the media and on the website of the respective institutions.

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, articles 9 and 10.

**Yes:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports are published on the websites <http://www.parlament.md> and <http://www.gov.md>. During the first few weeks after the deadline for publishing these declarations, one can easily find them online; later in the year, however, it is difficult to track them, as the search engines on most of the public institutions' websites do not work.

**References:**

<http://unimedia.md/?mod=news&id=17744>

<http://www.ziare.com/articole/vlad+filat+avere>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism, <http://www.investigatii.md>, Nov. 3, 2010, CIJ office.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The records are available online.

**References:**

<http://unimedia.md/?mod=news&id=17744>

<http://www.ziare.com/articole/vlad+filat+avere>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The asset disclosure forms follow the legal provisions, but the standard provided for by the law allows for different interpretations, and submission of incomplete information.

On the other hand, the persons who submit the forms are rarely interested in submitting complete and truthful information, because the only sanction that they can receive in case they disobey the law is disciplinary punishment at their workplace.

**References:**

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

Public servants do not hurry to make the law (on disclosure of assets) functional, Natalia Porubin, Center for Investigation Journalism, 2010, <http://www.investigatii.md/index.php?art=444&cat=6&editie=>

**100:** The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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

50

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

During each election campaign, one can notice the use of administrative resources in party's interest (cars, conference halls within state institutions for meeting the voters, etc.)

**References:**

<http://www.amn.md/stiri-8-296-0.html>

[http://omg.md/Content.aspx?id=3635\\_<=1](http://omg.md/Content.aspx?id=3635_<=1)

<http://www.moldovacurata.md/?mod=page&id=1>

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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### 3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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32. Can members of the legislature be held accountable for their actions?

50

32a. In law, the judiciary can review laws passed by the legislature.

Yes | No

**Comments:**

The Constitutional Court conducts, upon request, hearings on the control of constitutionality of laws, regulations, decisions of Parliament, decrees of the Presidents, decisions of the Government (...).The only exception are the legal acts with individual character.

**References:**

Law of the Republic of Moldova on Constitutional Court, nr. 317-XIII, as of Dec. 13, 1994, article 4, paragraph 1, sub-point a

**Yes:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

The Constitutional Court cannot, on its own initiative, start a review of the law. It can only react to requests by the Government, president, minister of Justice, Supreme Court of Justice, etc.

The Constitutional Court is also noted to be partisan in adopting its decisions.

**References:**

Judicial Reform Index for Moldova, American Bar Association, June 2009, page 43,  
[http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

Moldovan Minister of Justice: Decision of the Constitutional Court, politically motivated, April 28, 2010,  
<http://politicom.moldova.org/news/moldovan-minister-of-justice-decision-of-the-constitutional-court-politically-motivated-208565-eng.html>

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes | **No**

**Comments:**

Members of Parliament (MPs) can be investigated and prosecuted for criminal or administrative allegations only after their immunity is lifted, by 50 percent+1 votes of the total number of MPs.

**References:**

Law of the Republic of Moldova on the status of Members of Parliament, nr.39-XIII, as of April 7, 1994

**Yes:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**No:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

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33. Are there regulations governing conflicts of interest by members of the national legislature?

46

33a. In law, members of the national legislature are required to file an asset disclosure form.

**Yes** | No

**Comments:**

Asset disclosure forms are submitted by members of the government, parliament, judges (...) and are published in media and on the web site of the respective institutions.

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, article 9.

**Yes:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes | No

**Comments:**

The only restrictions concern the restriction against employment for one year after leaving the job by the administration or control structures of companies over which the respective person exercised surveillance and control.

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008, article 23.

**Yes:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Yes | No

**Comments:**

Persons that this law addresses shall not receive gifts if these are linked with the performance of their duties (except for those duties that involve official protocol).

The law also mentions that protocol gifts (hospitality) shall not exceed the value of one national average salary.

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008, article 23

Article 3 of this law mentions Members of Parliament among subjects of this law.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

Yes | No

**Comments:**

The auditing of the asset disclosure forms submitted by Members of Parliament is performed by the Central Control Commission. It is an autonomous body, formed of nine members, named by the president (3), the Parliament (3) and the Government (3). It can attract various specialists to help perform the control (auditing).

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, articles 9, 10 and 11.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008, is not enforced at all. The practice of submitting personal conflict of interest forms is not in place and the Ethics Committee envisaged by the above mentioned law has not yet been created.

**References:**

Monitoring the anti-corruption policies in the Republic of Moldova, Transparency International Moldova, November 2009, <http://www.transparency.md/content/blogcategory/16/48/4/8/lang,en/>

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The legal provision regarding the possibility to accept gifts amounting to an average wage creates favorable conditions for the flourishing of small-scale corruption.

**References:**

Monitoring the anti-corruption policies in the Republic of Moldova, Transparency International-Moldova, November 2009, <http://www.transparency.md/content/blogcategory/16/48/4/8/lang,en/>

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

As one can see from the report, the auditing performed by the Departmental Control Commission is in place, but it cannot be considered very professional as only very few of the public institutions' Control Commissions have databases containing the assets disclosure forms. The Control Commission does not have access to information to perform the auditing, and can only request other institutions to do that. However, due time limits, it cannot do that.

Further on, the reports show that from the total number of disclosure forms sent by the Commissions to the Center for Combating Economic Crimes and Corruption, the latter did not perform one audit during the period 2003-2008.

**References:**

Study on disclosure of assets and income of high level public authorities, judges, prosecutors (...), Center for Analysis and Prevention of Corruption, March 2009, Chisinau, [http://www.capc.md/docs/Study\\_declaration\\_of\\_assets\\_and\\_income.pdf](http://www.capc.md/docs/Study_declaration_of_assets_and_income.pdf), see pages 118-122

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

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### 34. Can citizens access the asset disclosure records of members of the national legislature?

63

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | No

**Comments:**

Asset disclosure forms submitted by members of the government, parliament, judges (...) are published in media and on the website of the respective institutions.

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, articles 9 and 10.

**Yes:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, non-governmental groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

On March 31, 2010 (the last day for submitting and publishing the income statements), only 67 out of 101 members of Parliament had published their assets disclosure forms. Some published them later, others did not publish them at all.

**References:**

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

"72 high officials published their income and assets," Timpul, March 31, 2010, <http://www.timpul.md/articol/72-de-demnitari-si-au-scos-averea-la-vedere-8629.html>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available online, yet these are incomplete and the search engine of the Parliament's website does not work properly; if one searches the records at a later date (than March-April), these are difficult to find.

**References:**

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

"72 high officials published their income and assets," Timpul, March 31, 2010, <http://www.timpul.md/articol/72-de-demnitari-si-au-scos-averea-la-vedere-8629.html>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The asset disclosure forms follow the legal provisions, but the standard provided for by the law allows for different interpretations, and also the submission of incomplete information.

However, the persons that submit the forms are rarely interested in submitting complete and truthful information, because the only sanction they can receive in case they disobey the law is disciplinary punishment at their workplace.

**References:**

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

"Public servants do not hurry to make the law (on disclosure of assets) functional," Natalia Porubin, Center for Investigation Journalism, 2010, <http://www.investigatii.md/index.php?art=444&cat=6&editie=>

**100:** The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

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### 35. Can citizens access legislative processes and documents?

100

35a. In law, citizens can access records of legislative processes and documents.

Yes | No

**Comments:**

The plenary sessions of the Parliament can be broadcast live on public TV and radio stations (...). The records of the public sessions are published on the official website of the Parliament.

**References:**

Parliament's Regulation, nr. 797-XIII as of April 2, 1996, <http://www.parlament.md/CadrulLegal/RegulamentulParlamentului/tabid/154/Default.aspx>

**Yes:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**No:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available online on the website of the Parliament and are placed there regularly, after each session. All draft laws are also published there for public consultation.

**References:**

<http://193.33.92.226/SesiuniParlamentare/Sedintepplenare/tabid/128/Default.aspx>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

They can be accessed online.

**References:**

<http://193.33.92.226/SesiuniParlamentare/Sedintepplenare/tabid/128/Default.aspx>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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65

### 3.3. Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch

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#### 36. Are judges appointed fairly?

83

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes | No

**Comments:**

All judges (except for those at the Supreme Court of Justice) are appointed by the president of the Republic of Moldova, at the proposal of the Supreme Council of Magistrates. Judges from Supreme Court of Justice are appointed by the Parliament at the proposal of the Supreme Council of Magistrates.

To become a judge, entering a competition is mandatory. The competition is organized by the Supreme Council of Magistrates, based on a regulation it developed, with clear indicators for selection. The details of the examination are published at least 90 days ahead of time in the media and on the web.

**References:**

Law of the Republic of Moldova on the status of judges, nr. 544-XIII, as of July 20, 1995, articles 9 and 11

**Yes:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**No:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100 | 75 | 50 | 25 | 0

**Comments:**

Most national-level judges meet the specified criteria, and the procedure of promotion is very detailed. However, the procedure is not always very transparent, and an actual competition is sometimes just for show, the candidate being "known" in advance.

**References:**

Judicial Reform Index for Moldova, American Bar Association, June 2009, page 73,  
[http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes | No

**Comments:**

All judges (except for those at the Supreme Court of Justice) are appointed by the President of the Republic of Moldova, at the proposal of the Supreme Council of Magistrates. Judges from Supreme Court of Justice are appointed by the Parliament at the proposal of the Supreme Council of Magistrates.

**References:**

Law of the Republic of Moldova on the status of judges, nr. 544 – XIII, as of July 20,1995, articles 9 and 11

**Yes:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

**No:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

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### 37. Can members of the judiciary be held accountable for their actions?

67

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes | No

**Comments:**

A decision is composed of three parts: an introductory part, a description of the motivation for the decision, and the final part. In the motivation part, the judge discusses the circumstances of the case, the evidence on which the court's conclusions are based, arguments for rejecting some of the evidence, laws that the court was guided by, etc. The same principles apply in administrative and criminal cases.

**References:**

Civil procedure code of the Republic of Moldova, 225-XV, as of May 30, 2003, article 241

**Yes:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**No:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Judges are obligated by law to give reasons for their decisions. The explanation is a component part of the decision that is handed out to interested parties. However, the quality of the explanation much depends on the professionalism of the judge and, not to be neglected, on external influence or corruption.

**References:**

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf), see pages 77-79

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Yes | No

**Comments:**

The Supreme Council of Magistrates is the judicial self-administration body, invested, among other duties, with disciplinary functions. It examines the complaints of citizens against judges' ethics, applies sanctions, receives and requests the checking of the assets disclosure forms submitted by judges.

**References:**

Law of the Republic of Moldova in the Supreme Council of Magistrates, nr. 947-XIII, as of July 19, 1996, article 4, paragraph 3, <http://www.csm.md/>

**Yes:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

**No:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes | No

**Comments:**

The Supreme Council of Magistrates is independent in its activity, in relations with the Supreme Court of Justice, Ministry of Justice and other public authorities, and shall only follow the constitution and other laws. It is constituted of 12 members: The president of the Supreme Court of Justice, the minister of Justice, the general prosecutor, five members elected by the General Assembly of Judges, and four elected by Parliament (from among professors).

**References:**

Law of the Republic of Moldova in the Supreme Council of Magistrates, nr. 947-XIII, as of July 19, 1996, [http://www.csm.md/index.php?option=com\\_content&view=article&id=70&Itemid=90](http://www.csm.md/index.php?option=com_content&view=article&id=70&Itemid=90) <=ro

**Yes:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

**No:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Disciplinary Commission acts in response to complaints coming from citizens who are unsatisfied with a judge's activity or behavior.

**References:**

Information Note on the activity of the Disciplinary Commission of the Supreme Council of Magistrates for 2006-2009, [http://www.csm.md/files/Ordinea\\_disciplinar/Not\\_informativ\\_CD.pdf](http://www.csm.md/files/Ordinea_disciplinar/Not_informativ_CD.pdf)

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

In 2009, for instance, over 50 judges were sanctioned by the Supreme Council of Magistrates.

**References:**

Information Note on the activity of the Disciplinary Commission of the Supreme Council of Magistrates for 2006-2009, [http://www.csm.md/files/Ordinea\\_disciplinar/Not\\_informativ\\_CD.pdf](http://www.csm.md/files/Ordinea_disciplinar/Not_informativ_CD.pdf)

"Monitoring the anti-corruption policies in the Republic of Moldova," Transparency International-Moldova, November 2009, page 137

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

50

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes | No

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, article 9:

Asset disclosure forms submitted by members of the government, parliament, judges (...) are published in media and on the website of the respective institutions.

Law of the Republic of Moldova in the Supreme Council of Magistrates, nr. 947-XIII, as of July 19, 1996, article 4, paragraph 3:

The Supreme Council of Magistrates receives and requests the checking of the assets disclosure forms submitted by judges, and later publishes them on its website.

**Yes:** A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Yes | No

**Comments:**

Persons that this law addresses shall not receive gifts if these are linked with the performance of their duties (except for official protocol).

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008, article 23  
Article 3 of this law mentions judges as being among subjects of this law.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Yes | No

**Comments:**

The auditing of the asset disclosure forms submitted by judges is performed by the Central Control Commission. It is an autonomous body, formed of nine members, named by the president (3), the Parliament (3) and the Government (3). It can employ various specialists to help perform the control (auditing). At the same time, the Supreme Council of Magistrates performs an oversight of the assets disclosure of judges, and can request the fiscal authorities to verify them.

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, articles 9, 10 and 11.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes | No

**Comments:**

The only restrictions concerns the ban against employment for one year after leaving the job by the administration or control structures of companies over which the respective person exercised surveillance and control.

This law addresses various categories of public servants, legislators, judges, etc.

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008, article 23.

**Yes:** A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb. 15, 2008, is not enforced at all. The practice of submitting personal conflict of interest forms is not in place and the Ethics Committee envisaged by the above mentioned law has not yet been created.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The article from the Alianta Moldova Noastra website describes the case where the country's leadership offered gifts to 180 public figures (ministers, judges, electoral commission members, etc.) after the April 5, 2009, elections.

**References:**

"No one should be above the law," Oct 2, 2009, website of the Alianta Moldova Noastra (currently part of the governing coalition), <http://www.amn.md/stiri-674-0.html>

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The auditing performed by the Departmental Control Commission is in place, but it cannot be considered very professional as only a very few of the public institutions' Control Commissions have databases of the assets disclosure forms. The Control Commission does not have access to necessary information to perform the auditing, and can only request other institutions to do that. However, because of time limits and staff shortages, it cannot do that.

Further on, the reports show that from the total number of disclosure forms sent by the Commissions to the Center for Combating Economic Crimes and Corruption, the latter did not perform one audit during the period of 2003-2008.

**References:**

Study on disclosure of assets and income of high level public authorities, judges, prosecutors (...), Center for Analysis and Prevention of Corruption, March 2009, Chisinau, [http://www.capc.md/docs/Study\\_declaration\\_of\\_assets\\_and\\_income.pdf](http://www.capc.md/docs/Study_declaration_of_assets_and_income.pdf), see pages 118-122

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

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### 39. Can citizens access the asset disclosure records of members of the national-level judiciary?

44

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | No

**Comments:**

The Supreme Council of Magistrates places the asset disclosure forms of judges on its website and maintains them during the entire year.

**References:**

Law of the Republic of Moldova in the Supreme Council of Magistrates, nr. 947-XIII, as of July 19, 1996, article 4, paragraph 3, sub-point g

**Yes:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Assets disclosure forms of judges used to be available online, on the website of the Supreme Court of Justice (for justices working within this court) and for the rest; however, only some courts had websites and very few published their assets statements. At this moment, no asset statements are published online. Those on the website of the Supreme Court of Justice disappeared after the scandal involving President of the Court Ion Muruianu.

**References:**

<http://www.csj.md/>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

As records are not available online, they can be obtained only at the courts; thus, a trip to the town where the respective court is located is necessary. Moreover, the court's staff might not be very cooperative in offering such information.

**References:**

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

First of all, these are missing. Second, like the rest of the income statements, they follow the law, which is not well-defined and allows for various interpretations and submission of incomplete information.

**References:**

<http://www.timpul.md/articol/72-de-demnitari-si-au-scos-averea-la-vedere-8629.html>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

**100:** The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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### 3.4. Budget Process Oversight & Transparency

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40. Can the legislature provide input to the national budget?

75

40a. In law, the legislature can amend the budget.

Yes | No

**Comments:**

The Parliament of the Republic of Moldova reviews the yearly budget law in its special commission and then analyzes it in three sessions. Each session has a separate role. In the first session, the general directions of the budgetary policy are reviewed; in the second session, the incomes and expenditures; and in the third one, the incomes and expenditures in details for public authorities are reviewed. At each session, Parliament can propose amendments and send the budget law to the special commission, to prepare it for the next session. Also, the budget law can be amended anytime during the year.

**References:**

Law of the Republic of Moldova on the budgetary system and the budgetary process, nr. 847-XIII, as of May 24, 1996, articles 26-31 and 41-42.

**Yes:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**No:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**Comments:**

The only expenses that can be used without legislative approval are the Government Reserve Fund and the special budget of the Information and Security Service, which is kept secret. Particular expenses within these two funds, however, do not go above 1 percent of the national budget. It is worth mentioning that there are cases (rare though) when the government requests the approval of the Parliament for expenses already performed.

**References:**

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

The Commission for Budget and Finances in Parliament has a clear shortage of experts who could perform the budget monitoring process. Worse is the fact that the Parliament has never, in the recent years at least, adopted a political decision regarding the reports issued by the Court of Accounts.

**References:**

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

**Comments:**

Only formal consultations with the public take place. The Ministry of Finance published the draft law, but the discussions/proposals have no real impact. Most of the chapters are negotiated based on political interests (the most relevant example being capital investments). The views of the opposition are rarely or not at all taken into account.

**References:**

The Law on State budget 2010, adopted on Dec. 23, 2009, <http://politicom.moldova.org/news/legea-bugetului-de-stat-pentru-2010-a-fost-adoptata-de-parlament-205117-rom.html>

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

Only formal consultations with the public take place. The Ministry of Finance publishes the draft law, but the discussions/proposals that come from citizens/NGOs have no real impact.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Citizens, usually acting through NGOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or NGOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can access general categories of the budget allocations, such as “salaries in the education system,” but not the very detailed, itemized allocations, such as per ministry or department. This information is difficult to obtain even upon request from the respective ministry or agency. An action in court might be often necessary.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

**75:**

**50:** Citizens, journalists and NGOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

**25:**

**0:** Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

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

0

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes | No

**Comments:**

The Standing Committee on Economy, Budget and Finance has a general competence to prepare a professional drafting of the laws that affect the adopted budgetary laws, estimate new expenditures and track the implementation of the adopted laws and other normative acts. The oversight of the public funds is performed by the Court of Accounts.

**References:**

Law on Adopting the Parliament Regulation nr.797 as of April 2,1996,  
<http://www.parlament.md/LastructuredeParlament/Comisiipermanente/tabid/84/CommissionId/1/Default.aspx>

**Yes:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**No:** A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

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43. Is the legislative committee overseeing the expenditure of public funds effective?

25

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

<http://www.parlament.md/LastructuredeParlament/Comisijpermanente/tabid/84/CommissionId/1/Default.aspx>

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

**Comments:**

Both governing and opposition parties are represented in the Committee (five members out of 11 are from the opposition).

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

<http://www.parlament.md/LastructuredeParlament/Comisijpermanente/tabid/84/CommissionId/1/Default.aspx>

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**Comments:**

The Committee does not start its own investigations, first of all due to lack of human resources, second due to the fact that this job is the Court of Accounts' responsibility. Even when the Court of Accounts issues reports, the Parliament is slow to act.

Currently the law limits the possibility of Parliament to request the Court of Accounts to conduct an investigation. In the past, this request was possible, but usually, these were politically driven requests, so we can assume the present scenario is better.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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## Category 4. Public Administration and Professionalism

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### 4.1. ~~69~~ Civil Service: Conflicts of Interest Safeguards and Political Independence

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

75

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes | No

**Comments:**

The civil service is based on principles of legality, professionalism, transparency, impartiality, independence, responsibility, loyalty and stability.

**References:**

Law of the Republic of Moldova regarding the civil service and the status of the civil servant, nr. 158-XVI, as of July 4, 2008, article 5.

**Yes:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**No:** A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

Yes | No

**Comments:**

Articles 25 and 26 provide for certain restrictions in being a civil servant, including economic activities and family and affiliation relations. Article 28 provides for the ways of entering the civil service, and these are: competition, promotion and transfer. Promotion can be made only if the person received the grade "good" during the past two evaluations (article 45).

**References:**

Law of the Republic of Moldova regarding the civil service and the status of the civil servant, nr. 158-XVI, as of July 4, 2008

**Yes:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**No:** A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

Yes | No

**Comments:**

Disciplinary Commissions are created inside each public institution. It is mandatory that one member of the commission is a representative of the trade union. The Commission analyzes the complaints of civil servants against their management and of management against civil servants. The decision of the Commission can be appealed in the competent court.

**References:**

Law of the Republic of Moldova regarding the civil service and the status of the civil servant, nr. 158-XVI, as of July 4, 2008, articles 59 and 60.

**Yes:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

**No:** A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | No

**Comments:**

The prohibition against occupying a certain position or working in a certain field in cases of corruption, can be enforced through a court decision for a period of two to five years.

**References:**

Criminal Code of the Republic of Moldova, nr. 958-XV as of April 18, 2002, article 324, paragraph 1.

**Yes:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**No:** A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

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#### 45. Is the law governing the administration and civil service effective?

56

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

As shown in the report, the civil service in Moldova is somewhat influenced by the political process. The number of civil servants

at the middle level who report that the political process influences their job stability is 40 percent (a very significant number), while 20 percent of civil servants with leadership positions report that the political process influences their job stability. This report is based on a large-scale survey among civil servants on the implementation of the Central Public Administration Reform in Moldova during 2006-2009. The report is written by a team of 13 experts in the field of public administration and civil service reform.

**References:**

Evaluating the Results of the Implementation of the Central Public Administration Reform in Moldova, Corneliu Popovici et al., Chisinau 2010, page 42.

<http://www.soros.md/files/publications/documents/EVALUAREA%20PERFORMANTELOR%20IMPLEMENTARII%20STRATEGIEI%20DE%20REFORMA>

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | **50** | 25 | 0

**Comments:**

About 50 percent of civil servants who were interviewed gave concrete examples of hiring based on friendship or family affiliation.

This is a comprehensive study based on a survey performed in 16 key public authorities that questioned 418 civil servants (about 25 percent of the total number of personnel working in these institutions).

**References:**

Conflicts of interest in the public service: stagnation or evolution?  
Ianina Spinei, 2010, Transparency International-Moldova, page 23, [http://www.transparency.md/content/blogcategory/16/48/4/0/lang.en/](http://www.transparency.md/content/blogcategory/16/48/4/0/lang/en/)

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

**Comments:**

About 47 percent of the interviewed civil servants consider that the promotions are undeserved, and around 40 percent think that the evaluation procedure is nontransparent and nonobjective.

This is a comprehensive study based on a survey performed in 16 key public authorities that questioned 418 civil servants (about 25 percent of the total number of personnel working in these institutions).

**References:**

Conflicts of interest in the public service: stagnation or evolution?, Iana Spinei, 2010, Transparency International-Moldova, page 23, <http://www.transparency.md/content/blogcategory/16/48/4/0/lang/en/>

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

**Comments:**

The situation regarding job descriptions (or called terms of reference) has improved over the last year and a half, with most of the civil servants having job descriptions. Sometimes, however, civil servants are requested to perform other duties than those mentioned in the job description, or not all terms of reference are sufficiently clear and detailed.

**References:**

Evaluating the Implementation of the Central Public Administration Reform in Moldova 2006-2009, Chisinau 2010, Soros Foundation Moldova, Corneliu Popovici, Vladimir Arachelov et al., <http://www.soros.md>

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

**Comments:**

Currently the bonuses go up to between 75 and 100 percent of the basic salary of all employees in the public sector. According to the Strategy of Reform of the Central Public Administration, this situation had to change, through the development and adoption of the law on salaries of civil servants and government decision on gradation and classification of public functions. These have not been adopted until now, although they ought to have been by the end of 2008.

**References:**

Government Decision regarding the remuneration of staff of budget-financed institutions, nr. 1108 as of Sept. 25, 2006, point 6, 9.

Evaluating the Implementation of the Central Public Administration Reform in Moldova 2006-2009, Chisinau 2010, Soros Foundation Moldova, Corneliu Popovici, Vladimir Arachelov et al, page 53, <http://www.soros.md>

Interview with Corneliu GURIN, programs coordinator at Association for Participatory Democracy – ADEPT – (<http://www.e-democracy.md>), Nov. 2, 2010, ADEPT office.

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

**Comments:**

The subsection of the government's website dedicated to the Central Public Administration Reform publishes a monthly bulletin called "Management of the Civil Servants" and includes, each four months, a Report on the Implementation of the Law regarding the public function and the civil servants. The reports provide for the overall number of positions in the public service, the number of those occupied, and those available. For instance in the last report it was shown that 88.2 percent of the total number of jobs were filled, and 11.8 percent were vacant.

**References:**

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>), Nov. 2, 2010, ADEPT office

<http://www.rapc.gov.md/md/bulinf/>

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

**References:**

Evaluating the Implementation of the Central Public Administration Reform in Moldova 2006-2009, Chisinau 2010, Soros Foundation Moldova, Corneliu Popovici, Vladimir Arachelov et al., <http://www.soros.md>

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

**Comments:**

There were no delays in the payment of civil servants during the last year.

**References:**

Interview with Veaceslav Ionita, Member of Parliament, Sept. 15, 2009

[http://www.pldm.md/index.php?view=article&id=1714%3Aaie-toata-lumea-stie-indepli-obligatii-salariati-pensionari&option=com\\_content&Itemid=3](http://www.pldm.md/index.php?view=article&id=1714%3Aaie-toata-lumea-stie-indepli-obligatii-salariati-pensionari&option=com_content&Itemid=3)

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>, Nov. 2, 2010, ADEPT office

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**Comments:**

A civil servant convicted of corruption can only be banned from future employment through a court's decision. Yet, it can only be a temporary limitation and courts understand the rule in a "stricto sensu," as a prohibition against occupying a certain function, and not against being generally employed in the public service.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>). Oct. 25, 2010, Chisinau

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

---

**46. Are there regulations addressing conflicts of interest for civil servants?**

39

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes | No

**Comments:**

According to article 3, senior (and also mid-level) members of the civil service are obliged to disclose their assets.

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002

**Yes:** A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

Yes | No

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb. 15, 2008, article 5, paragraph 5

**Yes:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**No:** A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | No

**Comments:**

The only restrictions make it impossible to be employed for one year after leaving the civil service by the administration or control structures of companies over which the civil servant had formerly exercised surveillance and control.

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008, article 20, paragraph (3).

**Yes:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

Yes | No

**Comments:**

Civil servants shall not receive gifts if they are linked with the performance of their duties (except for matters of official protocol).

**References:**

Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008, article 23

**Yes:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**No:** A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes | No

**Comments:**

The auditing of the asset disclosure forms is performed by the Departments of Control Commission, within ministries and other institutions. If the Commission uncovers irregularities, it sends the file to the Center for Fight against Economic Crimes and Corruption. As such, the latter only reacts to requests coming from the Commission, and the Commission cannot be considered an impartial third-party.

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, articles 9 and 10.

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008, is not enforced at all. The practice of submitting personal conflict of interest forms is not in place and the Ethics Committee envisaged by this law has not yet been created.

**References:**

Monitoring the Anti-corruption Policies in the Republic of Moldova, Transparency International-Moldova, November 2009, <http://www.transparency.md/content/blogcategory/16/48/4/8/lang/en/>

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The legal provision regarding permission to accept gifts that amount to an average wage creates favorable conditions for small-scale corruption.

**References:**

Monitoring the Anti-corruption Policies in the Republic of Moldova, Transparency International-Moldova, November 2009, <http://www.transparency.md/content/blogcategory/16/48/4/8/lang/en/>

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb 15, 2008 is not currently applied, thus the civil servants do not submit conflict of interest statements and can easily participate in policy decisions that affect their personal interests.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

Interview with Corneliu Gurin, programs coordinator at Association for Participatory Democracy (ADEPT), <http://www.e-democracy.md>), Nov. 2, 2010, ADEPT office

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

**25:**

**0:** Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

As one can see from the report, the auditing performed by the Departmental Control Commission is in place, but it cannot be considered very professional as only very few public institutions' Control Commissions have databases of the assets disclosure forms. The Control Commission does not have access to information to perform the auditing, and can only request other institutions to do that. But, being limited in time, it cannot do that.

Further on, the reports show that from the total number of disclosure forms sent by the Commissions to the Center for Combating Economic Crimes and Corruption, the Center did not perform one audit during the period 2003-2008.

**References:**

Study on Disclosure of Assets and Income of High-level Public Authorities, Judges, Prosecutors (...), Center for Analysis and Prevention of Corruption, March 2009, Chisinau, [http://www.capc.md/docs/Study\\_declaration\\_of\\_assets\\_and\\_income.pdf](http://www.capc.md/docs/Study_declaration_of_assets_and_income.pdf), see pages 118-122

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** Civil service asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | **No**

**Comments:**

Asset disclosure forms submitted by members of the government, Parliament, judges (...) are published in the media and on the websites of the respective institutions. Persons not mentioned in the text of the law can make the forms public on their own initiative. Thus, senior civil servants are not obliged to make them available to the public.

**References:**

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002, article 13.

**Yes:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**No:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | **25** | 0

**Comments:**

Among senior level officials, very few make the records public via the Internet or through other venues. When officially requested, only a quarter of the public institutions replied to the request of the Center for Investigation Journalism for information regarding the asset statements.

**References:**

What Are Moldovan Officials Hiding When They Refuse to Make the Income Statements Public? <http://www.investigatii.md/index.php?art=330&cat=6&editie=>

Officials Do Not Hurry to Make the Law (On Disclosure Of Assets) Functional, Natalia Porubin, Center for Investigation Journalism, 2010, <http://www.investigatii.md/index.php?art=444&cat=6&editie=>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

These are not costly, and can be obtained via the Internet (in very few cases) or regular mail. Yet, not many public institutions will offer this information; thus, the interested person might have to go to court.

**References:**

What Are Moldovan Officials Hiding When They Refuse to Make the Income Statements Public? <http://www.investigatii.md/index.php?art=330&cat=6&editie=>

Officials Do Not Hurry to Make the Law (On Disclosure Of Assets) Functional, Natalia Porubin, Center for Investigation Journalism, 2010, <http://www.investigatii.md/index.php?art=444&cat=6&editie=>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records' costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | **25** | 0

**Comments:**

They follow the law, which is not well-defined and allows for various interpretations and submission of incomplete information. For instance, the law says that the officials have to declare their overall property once they enter their jobs. Afterward, every year, they have to update the info; most of them no longer include their overall property holdings in their yearly statements and only mention the income they gained during the past year. So, for those in the public who are interested, this information is almost impossible to track.

**References:**

What Are Moldovan Officials Hiding When They Refuse to Make the Income Statements Public? <http://www.investigatii.md/index.php?art=330&cat=6&editie=>

Officials Do Not Hurry to Make the Law (On Disclosure Of Assets) Functional, Natalia Porubin, Center for Investigation Journalism, 2010, <http://www.investigatii.md/index.php?art=444&cat=6&editie=>

Interview with Cornelia Cozonac, Director of Center for Investigative Journalism (<http://www.investigatii.md>), Nov. 3, 2010, CIJ office.

**100:** The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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

25

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | **No**

**References:**

There is not law regulating the whistle-blowing. There is currently a draft law on whistle-blowing, but it has not yet entered Parliament.

**Yes:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | **50** | 25 | 0

**Comments:**

There is no law regulating whistle-blowing. There is currently a draft law on whistle-blowing, but it has not yet entered Parliament. However, there are internal security departments inside most public institutions where people can report cases of corruption.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | **No**

**References:**

There is no law regulating whistle-blowing. There is currently a draft law on whistle-blowing, but it has not been introduced in Parliament.

**Yes:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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

100

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes | No

**Comments:**

This is not provided for in any law. It was stipulated in the Action Plan of the Strategy for Combating Corruption, as an action that should be taken. It was later implemented. There are also internal security departments within most public institutions that receive complaints related to corruption cases.

**References:**

The Center for Fight Against Economic Crimes and Corruption has a hotline (both telephone and online) through which both civil servants and regular citizens can report cases of corruption and receive useful advice, <http://www.ccecc.md/feedback>

**Yes:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**No:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

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

63

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Not all public institutions have internal security departments that deal with complaints on corruption cases.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The internal security departments within the public institutions are financed, as all other departments of the respective bodies.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

**Comments:**

The internal reporting mechanism (the internal security service) may act quickly on cases of corruption. However, we cannot talk about these cases are resolved here because corruption cases are later dealt with by the Center for Combating Economic Crimes and Corruption and later on by the courts.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

63  
 4.3. Government Procurement: Transparency, Fairness, and  
 Conflicts of Interest Safeguards

51. Is the public procurement process effective?

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes | No

**References:**

The Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb. 15, 2008, covers also public procurement officials. Paragraphs 3 and 4 say that this law applies to heads and deputy-heads of public institutions, state and municipal enterprises (...), as well as persons that are entitled to take decisions regarding the public assets or public money (...).

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**No:** A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

Yes | No

**Comments:**

Civil servants receives regular training according to the plan that has been approved by the Government. In the legislation related to public procurement, there is no mention of mandatory training for procurement officials; however, on the website of the agency, there is a rather ambitious plan for training of public procurement officials, of heads of various public institutions and agencies, of mayors, etc., all of whom work in the field of public procurement.

**References:**

<http://tender.gov.md/ro/inst/>

**Yes:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

**No:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb. 15, 2008, is not being applied. The practice of submitting personal conflict of interest forms is not in place and the Ethics Committee envisaged by the above mentioned law has not yet been created.

**References:**

Conflict Of Interest In The Public Service: Stagnation or Evolution? Iainina Spinei, Transparency International Moldova, 2010, <http://www.transparency.md/content/blogcategory/16/48/4/8/lang.en/> ,

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes | No

**Comments:**

The former Commission responsible for the surveillance of the public procurement process was recently abolished (Government Decision 444 as of May 29, 2010), and no other body was established in its place.

One can conclude that the only existing mechanism for monitoring the incomes of the public procurement officials is the general legal framework that covers all public officials, particularly the Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002. This law is quite inefficient, so far, in regard to all public officials. The same applies to the public procurement field.

**References:**

Government Decision 444 as of May 29, 2010

Law of the Republic of Moldova regarding the disclosure and control of assets and income (...), nr. 1264-XV as of July 19, 2002

**Yes:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**No:** A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

Yes | No

**Comments:**

All public procurement that amounts more than 20,000 LEI (US\$1,680) for goods, and 25,000 LEI (US\$2,100) for services, shall be performed through public procurement procedure administered by the Public Procurement Agency. (There are several modalities of public procurement, including competitive bidding.)

**References:**

Law of the Republic of Moldova on Public Procurement, nr. 95-XVI, as of April 13, 2007

**Yes:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**No:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

Yes | No

**Comments:**

Article 53 provides for specific rules for sole sourcing, limiting it to three major cases: the supplier is the only source of a skill or technology; no adequate offer was submitted in an open competition procedure; in very exceptional cases, for urgent purposes, the authority may not adhere to the public competition terms.

There is also a Regulation on performing sole sourcing public procurement, adopted through Government Decision nr.1407 as of Dec. 10, 2008. It describes in details the procedure for sole sourcing.

**References:**

Law of the Republic of Moldova on Public Procurement, nr. 95-XVI, as of April 13, 2007

**Yes:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**No:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

Yes | No

**References:**

Articles 71-74 describe the procedure of challenging the procurement process.

Law of the Republic of Moldova on Public Procurement, nr. 95-XVI, as of April 13, 2007

**Yes:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**No:** A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes | No

**Comments:**

If the Public Procurement Agency does not issue a decision in due time or the economic agent is unsatisfied with the decision, an appeal in the competent court is possible.

**References:**

Law of the Republic of Moldova on Public Procurement, nr. 95-XVI, as of April 13, 2007, article 73, paragraph (10).

**Yes:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**No:** A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes | No

**Comments:**

Article 30 mentions such a prohibition that applies only to the current procurement where the company tried to bribe or otherwise influence a procurement officer or other official from the Agency. In such a case, the company is excluded only from that current competition.

However, there is a prohibition list (see art. 18), whereby the companies are prohibited from participating in the public procurement process for a period of three years. From we can see from the current list published on the website of the agency ([http://www.tender.gov.md/ro/black\\_list/](http://www.tender.gov.md/ro/black_list/)), it only concerns companies that failed to perform their contractual obligations. However, I believe it can include discovered cases of bribery, as well.

**References:**

Law of the Republic of Moldova on Public Procurement, nr. 95-XVI, as of April 13, 2007

**Yes:** A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

**No:** A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | **50** | 25 | 0

**Comments:**

From what we can see from the current list published on the website of the agency ([http://www.tender.gov.md/ro/black\\_list/](http://www.tender.gov.md/ro/black_list/)), it only concerns companies that failed to perform their contractual obligations. However, I believe it can include discovered cases of bribery, as well. However, the mechanism is certainly underdeveloped and needs improvement.

**References:**

[http://www.tender.gov.md/ro/black\\_list/](http://www.tender.gov.md/ro/black_list/)

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

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## 52. Can citizens access the public procurement process?

83

52a. In law, citizens can access public procurement regulations.

**Yes** | No

**Comments:**

The Public Procurement Agency publishes the Procurement Bulletin on its website. It contains information regarding the current competitions as well as information regarding the procurement process and granting of contracts.

Also, all public procurement regulations are mentioned in laws, government decisions and other regulations, which are available on <http://www.justice.md>

**References:**

Law of the Republic of Moldova on Public Procurement, nr. 95-XVI, as of April 13, 2007, article 9, paragraph (1), sub-point l).

**Yes:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**No:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes | No

**Comments:**

The contracting authority is obliged to publish the announcement of granting the contract within 30 days from the moment the contract is decided on, in the Procurement Bulletin and on the website of the Public Procurement Agency.

**References:**

Law of the Republic of Moldova on Public Procurement, nr. 95-XVI, as of April 13, 2007, article 21, paragraph (1).

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The public procurement regulations are available online are updated regularly on the registry of all legal acts, at <http://www.justice.md/>; or, on the website of the Public Procurement Agency, at <http://tender.gov.md/>.

**References:**

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The public procurement regulations are available online and are updated regularly on the registry of all legal acts, at <http://www.justice.md/>; or, on the web site of the Public Procurement Agency, at <http://tender.gov.md/>.

**References:**

<http://www.justice.md>

<http://tender.gov.md/>.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

The public procurement is advertised through the Bulletin of the Public Procurement Agency (for the largest ones, that go obligatorily through the Agency). Otherwise, they are advertised on the websites of the procuring institution (and, eventually, in its own bulletin or publication, if such exists). The report shows, however, that only very few public institutions have information regarding public procurement on their web sites. On most of the websites, this information is missing or is outdated by four to six months.

**References:**

Public Procurement: Transparency or Opacity? Monitoring Report, ACCES Info Center for Promotion of Freedom of Expression and Access to Information, Vasile Spinei, Elena Vacariuc, Angela Danilescu, et al., Chisinau 2009, page 165, [http://www.acces-info.org.md/upload/akizitsii\\_ultima.pdf](http://www.acces-info.org.md/upload/akizitsii_ultima.pdf)

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

The results — who won the bids — can be learned easily. However, technical details, such as the selection criteria, details of the competing companies or financial details will rarely be disclosed.

**References:**

Public Procurement: Transparency or Opacity? Monitoring Report, ACCES Info Center for Promotion of Freedom of Expression and Access to Information, Vasile Spinei, Elena Vacariuc, Angela Danilescu, et al., Chisinau 2009  
[http://www.acces-info.org.md/upload/akizitsii\\_ultima.pdf](http://www.acces-info.org.md/upload/akizitsii_ultima.pdf)

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

---

#### 4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

---

##### 53. Is the privatization process effective?

75

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes | No

**Comments:**

All natural persons and legal entities, both domestic and foreign, can participate in privatization of state assets.

**References:**

Law of the Republic of Moldova on administration and privatization of public property, nr. 121-XVI, as of May 4, 2007, article 25

**Yes:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**No:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes | No

**References:**

The Law of the Republic of Moldova on conflict of interest, 16-XVI as of Feb. 15, 2008, covers also public privatization officials. Paragraphs 3 and 4 state that this law applies to heads and deputy-heads of public institutions, state and municipal enterprises (...), as well as persons that are entitled to take decisions regarding the public assets or public money (...).

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**No:** A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law on Conflict of Interest governs over the public procurement officials. Unfortunately, this law is not enforced.

**References:**

Monitoring the Anti-corruption Policies in the Republic of Moldova, Transparency International-Moldova, November 2009, <http://www.transparency.md/content/blogcategory/16/48/4/8/lang/en/>

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>). Oct. 25, 2010, Chisinau

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

---

#### 54. Can citizens access the terms and conditions of privatization bids?

95

54a. In law, citizens can access privatization regulations.

Yes | No

**Comments:**

The Public Property Agency informs the potential investors and the civil society about the launch of a privatization process, its results, and offers consultancy to participants at this process.

As well, all privatization announcements are available in the Official Monitor (Official Journal) and on the website of the Agency. A recent example of privatization was that of Hotel Codru, where the conditions and rules were set out clearly and made available to the interested public.

**References:**

Regulation of the Public Property Agency, Government Decision nr. 1008, as of Sept. 10, 2007, <http://www.app.gov.md/md/regulamentul%20/>

**Yes:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**No:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

Generally, there are no problems regarding the advertisement of privatization competitions. The competition itself is flawed, though. Usually, the participating companies are related to each other, and the privatization is pre-arranged.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes | No

**Comments:**

Twice a year, the reports regarding the privatization results are published in the Official Journal. Also, the Public Property Agency informs the potential investors and the civil society about the launch of a privatization process, its results and offers consultations to participants in this process.

**References:**

Law of the Republic of Moldova on administration and privatization of public property, nr. 121-XVI, as of May 4, 2007, article 69, paragraph 4.

Regulation of the Public Property Agency, Government Decision nr. 1008, as of Sept. 10, 2007, <http://www.app.gov.md/md/regulamentul%20/>

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The rules and regulations governing the privatization process are available online at the website of the Agency for Administration of Public Property and on the website for national legislation, <http://www.justice.md>.

Rules applicable to a particular competition are published on the website of the Agency and in the national media.

**References:**

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

<http://www.app.gov.md/en/legi/>

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The rules and regulations governing the privatization process are available online at the web site of the Agency for Administration of Public Property and on the website for national legislation, <http://www.justice.md>.

Rules applicable to a particular competition are published on the website of the Agency and in the national media.

**References:**

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

<http://www.app.gov.md/en/legi/>

**100:** Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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Category 5. Government Oversight and Controls

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5.1. <sup>77</sup>National Ombudsman

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

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes | No

**Comments:**

The ombudsman (its local name is Parliamentary advocate) aims to guarantee the respect of human rights and constitutional freedoms by the central and local authorities (...).

**References:**

There are four ombudsmen in the Republic of Moldova. Their activity is regulated by the Law on ombudsmen, nr. 1349-XIII, as of Oct. 17, 1997.

[http://www.irp.md/item.php?text\\_id=510](http://www.irp.md/item.php?text_id=510)

**Yes:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**No:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

---

56. Is the national ombudsman effective?

64

56a. In law, the ombudsman is protected from political interference.

Yes | No

**Comments:**

The four ombudsmen are elected by Parliament (majority vote). By law, they are independent in their activity from the Parliament, the president, the central and local public authorities, etc.

**References:**

Law of the Republic of Moldova on ombudsmen, nr. 1349-XIII, as of Oct. 17, 1997, article 11

**Yes:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The four ombudsmen are elected by the majority vote of the Parliament for a term of five years; and can be dismissed with a two-thirds vote in rather specific cases. Thus, they are guaranteed a high degree of protection against direct political influence.

**References:**

Law on parliamentary advocates, Nr. 1349, as of Oct. 17, 1997,

[http://lex.justice.md/index.php?action=view&view=doc\\_<=1&id=311577](http://lex.justice.md/index.php?action=view&view=doc_<=1&id=311577)

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

The Director of the Center for Human Rights is elected by Parliament from the four elected ombudsmen, and can be removed according to the general rules applicable to all ombudsmen, i.e. with a two-thirds vote in specific cases, such as violation of its obligations stated in the law, a final conviction sentence, or incompatibility with other functions and occupations.

**References:**

Law on parliamentary advocates, Nr. 1349, as of Oct. 17, 1997,  
<http://lex.justice.md/index.php?action=view&view=doc.<=1&id=311577>

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Both national and international experts agree that the Center for Human Rights has limited staffing and funding.

**References:**

Report on Functional Review, Center for Human Rights Chisinau, Moldova, UNDP, Nov. 30-Dec.18, 2009

An assessment of the current problems of the Ombudsman institution in Moldova,  
Marek Antoni Nowicki (former International Ombudsman in Kosovo), June 2010, within the Democracy Support Program, Council of Europe and European Union Joint Program

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

Experts recommend replacing the existing process for nominating ombudsmen with a method that would ensure professional qualifications for ombudsmen, such as public competitions where anyone who meets the requirements can apply; or consulting with the relevant nongovernmental organizations and specialized organizations when selecting the candidates, etc.

**References:**

Report on Functional Review, Center for Human Rights Chisinau, Moldova, UNDP, Nov. 30-Dec.18, 2009

An assessment of the current problems of the Ombudsman institution in Moldova, Marek Antoni Nowicki (former International Ombudsman in Kosovo), June 2010, within the Democracy Support Program, Council of Europe and European Union Joint Program

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Even though the funding is insufficient, it is predictable and is not used as a tool to influence the activities of the Center for Human Rights.

**References:**

Report on Functional Review, Center for Human Rights Chisinau, Moldova, UNDP, Nov. 30-Dec.18, 2009

An assessment of the current problems of the Ombudsman institution in Moldova, Marek Antoni Nowicki (former International Ombudsman in Kosovo), June 2010, within the Democracy Support Program, Council of Europe and European Union Joint Program

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the law, the ombudsman presents yearly reports to the legislature. Also, early and thematic reports are published on the ombudsman's website.

**References:**

<http://www.ombudsman.md/md/anuale/>

Law on parliamentary advocates, Nr. 1349 as of Oct. 17, 1997, [http://lex.justice.md/index.php?action=view&view=doc\\_c=1&id=311577](http://lex.justice.md/index.php?action=view&view=doc_c=1&id=311577)

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Center for Human Rights initiates investigations upon citizens' complaints; however, it requires staff enhancement (increase in number and better training) in order to better perform its investigation role.

**References:**

Report on Functional Review, Center for Human Rights Chisinau, Moldova, UNDP, Nov. 30-Dec.18, 2009

An assessment of the current problems of the Ombudsman institution in Moldova, Marek Antoni Nowicki (former International Ombudsman in Kosovo), June 2010, within the Democracy Support Program, Council of Europe and European Union Joint Program

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

By law, the Center for Human Rights cannot impose penalties; it can only investigate cases and refer them to relevant authorities, or file an action in court.

**References:**

Report on Functional Review,  
Center for Human Rights Chisinau, Moldova, UNDP, Nov. 30-Dec.18, 2009

An assessment of the current problems of the Ombudsman institution in Moldova,  
Marek Antoni Nowicki (former International Ombudsman in Kosovo), June 2010, within the Democracy Support Program, Council of Europe and European Union Joint Program

Law on parliamentary advocates, Nr. 1349, as of Oct. 17, 1997, <http://lex.justice.md/index.php?action=view&view=doc.&id=311577>

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The Center for Human Rights' staff says that only around 50 percent of their recommendations are acted upon by the Government. The Center is weak in how it publicly presents its findings, and its activities remains largely unknown to the public.

**References:**

Report on Functional Review, Center for Human Rights Chisinau, Moldova, UNDP, Nov. 30-Dec.18, 2009

An assessment of the current problems of the Ombudsman institution in Moldova,  
Marek Antoni Nowicki (former International Ombudsman in Kosovo), June 2010, within the Democracy Support Program, Council of Europe and European Union Joint Program

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The Center for Human Rights acts rather quickly on complaints when it has the capacity to resolve an issue. However, the Center does not have an electronic document management system, which would ease and speed up the process of examining and responding to requests.

**References:**

Report on Functional Review, Center for Human Rights Chisinau, Moldova, UNDP, Nov. 30-Dec.18, 2009

An assessment of the current problems of the Ombudsman institution in Moldova, Marek Antoni Nowicki (former International Ombudsman in Kosovo), June 2010, within the Democracy Support Program, Council of Europe and European Union Joint Program

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

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## 57. Can citizens access the reports of the ombudsman?

100

57a. In law, citizens can access reports of the ombudsman(s).

Yes | No

**Comments:**

The Ombudsman's Office (called Center for Human Rights) publishes yearly reports on the situation of human rights in the country. These reports are published in the Official Journal.

**References:**

Law of the Republic of Moldova on parliamentary advocates, nr. 1349-XIII, as of Oct. 17, 1997, article 34.

**Yes:** A YES score is earned if all ombudsman reports are publicly available.

**No:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports are available online.

**References:**

<http://www.ombudsman.md/md/anuale/>

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

<http://www.ombudsman.md/md/anuale/>

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## 5.2. Supreme Audit Institution

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

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes | No

**References:**

The supreme audit institution in the Republic of Moldova is the Court of Accounts. Its activity is regulated by art. 133 of the Constitution of the Republic of Moldova, adopted on July 29, 1994, and the Law of the Republic of Moldova on Court of Accounts, nr. 261-XVI, as of Dec. 5, 2008, <http://www.ccrm.md/md/actelelegislative/>

**Yes:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**No:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

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## 59. Is the supreme audit institution effective?

81

59a. In law, the supreme audit institution is protected from political interference.

Yes | No

**Comments:**

Articles 2 and 4 provide for the independence of the Court of Accounts from any public authority and guarantee the prohibition of any interference into its activity.

**References:**

Law of the Republic of Moldova on Court of Accounts, nr. 261-XVI, as of Dec. 5, 2008

**Yes:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

Even though the presidents of the Court of Accounts are designated by the Parliament, they cannot be removed until there is a final court decision regarding their conviction for an offense is published, or the person enters a political party, or for health reasons.

**References:**

Study on Fulfillment of Decisions of the Court of Accounts, Efim Obreja, Transparency International-Moldova, 2009

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Currently, the Court of Accounts has around 140 employees in its national office and around 30 in the regional offices. Various reports agree that this staff is sufficient for the Court of Accounts to perform its mandate.

**References:**

<http://www.ccrm.md/file/organigrama/org%20RO%202009.pdf>

Study on Fulfillment of Decisions of the Court of Accounts, Efim Obreja, Transparency International-Moldova, 2009

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The Court of Accounts has professional staff. Its members, by law, cannot have served in the last two years in the government, a public institution or enterprise, that would make evident conflicting interests.

**References:**

Study on Fulfillment of Decisions of the Court of Accounts, Efim Obreja, Transparency International-Moldova, 2009, <http://www.transparency.md>, see pages 36-39

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The Court of Accounts receives regular funding, which is not dependent on political factors. The president of the Court and its members are designated by Parliament; this offers an easy way to ensure "control" over the Court without limiting its finances.

**References:**

Study on Fulfillment of Decisions of the Court of Accounts, Efim Obreja, Transparency International-Moldova, 2009

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The Court of Accounts is punctual and responsible in making its reports public, both to the Parliament, Government, and on its website, for the public. However, there are a number of Decisions of the Court of Accounts which are kept secret.

**References:**

<http://www.ccrm.md/md/rapoarte/>

<http://www.investigatii.md/index.php?art=207>

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

**Comments:**

Unfortunately the Decisions of the Court of Accounts are rarely acted upon.

**References:**

Study on Fulfillment of Decisions of the Court of Accounts, Efim Obreja, Transparency International-Moldova, 2009

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Court of Accounts adopts a yearly plan for auditing. In addition, it can initiate ad-hoc investigations, in reaction to media reports and appeals from nongovernmental organizations and Members of Parliament. However, some legal amendments limit Parliament's power to request the Court to investigate a case. This is a positive fact, as in most of the cases, the demands of the Parliament were politically motivated.

**References:**

Study on Fulfillment of Decisions of the Court of Accounts, Efim Obreja, Transparency International-Moldova, 2009

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

---

## 60. Can citizens access reports of the supreme audit institution?

92

60a. In law, citizens can access reports of the audit agency.

Yes | No

**Comments:**

The audit reports and decisions of the Court of Accounts are published in the Official Journal within 15 days from their adoption.

**References:**

Law of the Republic of Moldova on Court of Accounts, nr. 261-XVI, as of Dec. 5, 2008, article 34, paragraph 7

**Yes:** A YES score is earned if all supreme auditor reports are available to the general public.

**No:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

All reports are published in a quite timely fashion on the website of the Court of Accounts, except for the secret decisions.

**References:**

<http://www.investigatii.md/index.php?art=207>

Study on Fulfillment of Decisions of the Court of Accounts, Efim Obreja, Transparency International-Moldova, 2009

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports are available online, or in the publication Monitorul Oficial, which can be found in any public library.

**References:**

<http://www.ccrm.md/md/rapoarte/>

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

---

61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes | No

**References:**

The national tax collection agency is the Fiscal Inspectorate. Its activity is regulated by art. 132 of the Constitution of the Republic of Moldova, adopted on July 29, 1994, and the Tax Code of the Republic of Moldova, Title V.

**Yes:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

---

62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The tax inspectorate is undergoing continuing reforms in order to modernize the system with the view of achieving maximum use of the electronic communication technologies, such as electronic bar codes, checking the economic agents at distance, etc. This way, even with fewer employees, the Tax Inspectorate will perform better.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

The number of employees of the Tax Inspectorate will be reduced, July 10, 2009, <http://www.mdn.md/index.php?view=viewarticle&articleid=5052>

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The tax service receives sufficient funding on a predictable year-to-year schedule and independent from political interest. There are other ways through which political forces influence the tax inspectorate, the easiest one being the replacement of its director.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

### 63. In practice, are tax laws enforced uniformly and without discrimination?

50

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

The tax laws are enforced in a discriminatory manner: companies favored by the government are not controlled by the tax inspectorate, while other, often small and medium-sized businesses, are overwhelmed by tax inspections. State-owned companies, and other companies as well, sometimes receive tax amnesties granted by the Parliament (although this has not been noticed since the new Parliament was elected in July 2009).

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

---

### 64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes | No

**References:**

Law on custom service No.1150-XIV as of July 20, 2000

Customs Code of the Republic of Moldova, nr. 1149-XIV, as of July 20, 2000

**Yes:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist.

---

65. Is the customs and excise agency effective?

88

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Customs Service has sufficient staff, although it is not always professional. Corruption and violation of ethic rules are very common among custom officers. The Customs Service has quite a militarized structure and that makes it easier to follow orders from superiors rather than the law.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The budget is not the lever through which the political force controls the customs service. With a new government usually comes a new head of the customs service.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

**Comments:**

The Customs Service is among the most corrupt structures in Moldova. This is partly due to the big flow of “capital” that the customs officers have access to on a daily basis; however, the main reason is the overly complicated and confusing customs legislation which allows for so many different interpretations of the same article or customs regime.

**References:**

Customs officers without pockets, June 2010, <http://cuvantulliber.md/Investigatii.php>

<http://www.voceabasrabiei.net/index.php/stiri/social/10088-idiis-viitorul-va-coopera-cu-serviciul-vamal-la-combaterea-corupiei-i-creterea-increderii-in-activitatea-vamal>

Interview with Valeriu Prohniți, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**0:** Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

## 5.4. Oversight of State-Owned Enterprises

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes | No

**Comments:**

The Agency for Administration of Public Property acts on behalf of the state in representing the interests of the state-owned companies. However, a closer supervision role is played for different companies by relevant ministries. The Agency has more a formal role, and is rather active in cases of privatization and rent of state-owned objects.

**References:**

<http://www.app.gov.md/md/regulamentul%20/>

**Yes:** A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

30

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | **No**

**Comments:**

Both the director general and the deputy director of the Agency is designated by the minister of Economy and Trade.

**References:**

Government Decision of adopting the Regulation of the Agency for Administration of Public Property, nr. 1008, as of Sept. 10, 2007

**Yes:** A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | **50** | 25 | 0

**Comments:**

The Agency for Administration of Public Property does not have sufficient staff, neither does it have a clear mandate to oversee the state-owned companies. Each ministry oversees a set of state-owned companies, and while some of them (like the Ministry of Economy, or the Ministry of Agriculture) have capacity to perform this task, others (such as the Ministry of Culture or the Ministry of Ecology) clearly do not.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Both the Agency for Administration of Public Property and all the ministries that oversee state-owned companies receive regular funding, independent from the political factor.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Agency for Administration of Public Property does not oversee the companies as such; thus, it does not start investigations, as it has no mandate to do this. This function could be performed by ministries that oversee the companies. However, due to the fact that, in most cases, ministries are in direct conflict of interest with the respective companies — meaning they act as their protégés — one cannot talk about any investigations against them.

**References:**

<http://www.app.gov.md/md/regulamentul%20/>

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

Besides the fact that both the Agency for Administration of Public Property, the ministries and the state-owned companies are

linked among them through common interests (public procurement competitions, for instance, and other interests), they are staffed with partisans and people who are protected by one or another political leader.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

---

69. Can citizens access the financial records of state-owned companies?

25

69a. In law, citizens can access the financial records of state-owned companies.

Yes | No

**Comments:**

The financial records of state-owned companies are not included in article 7 of the Law on access to information (which mentions cases of restricted access to information), thus they are by law publicly available.

**References:**

Law of the Republic of Moldova regarding access to information Nr. 982, May 11, 2000,

**Yes:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

**Comments:**

The financial data is not publicly available at all.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

**0:** Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**Comments:**

The internal auditing standards used by many state-owned companies are flawed. Many of them are inactive.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens would most probably have to go to court to obtain such data, as directors of such companies would usually refuse to provide such info.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

**Comments:**

It is almost impossible to get this information, unless one files an action in court.

**References:**

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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## 52 5.5. Business Licensing and Regulation

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### 70. Are business licenses available to all citizens?

88

70a. In law, anyone may apply for a business license.

Yes | No

**Comments:**

This is the main law that establishes the principles and main directions of the licensing activity; further laws stipulate special conditions for various types of licenses. The aforementioned law does not contain any restrictions against any group of citizens or companies in their efforts to obtain a license.

**References:**

The Law of the Republic of Moldova on regulating entrepreneurial activity by licensing states, among licensing principles, and the equality of all natural persons and legal entities. (Law of the Republic of Moldova on regulating the entrepreneurial activity by licensing, nr. 451-XV, as of July 30, 2001, article 3).

**Yes:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**No:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.

Yes | No

**Comments:**

This law allows citizens and legal entities to appeal any type of decision from all public authorities, if they are unsatisfied with a decision or have not received a response in due time.

**References:**

Citizens and companies can appeal a rejected license in court according to the general provisions of the Law of the Republic of Moldova on administrative disputes, nr. 793-XIV as of Feb. 10, 2000.

**Yes:** A YES score is earned if there is a formal process for appealing a rejected license.

**No:** A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the law on licensing, there are 51 types of activities that require a license. Among these are the more sensitive sectors, such as medicine, insurance, audit, security, construction, weapons, genetics, pharmaceuticals, etc. A small import-export business would not require a license unless the trading object falls under one of the above mentioned categories. As the Doing Business ranking indicates, it takes 10 days to start a business (registration) in Moldova.

**References:**

Doing Business 2011, Moldova,

<http://www.doingbusiness.org/data/exploreeconomies/moldova#starting-a-business>

Law of the Republic of Moldova on regulation through licensing of the entrepreneurial activity, nr. 451 as of July 30, 2001

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

A small import-export business may not require a license at all, depending on its field of activity. However, the cost of registering a company goes up to 1,981 Lei (US\$170), or 10 percent of the income per capita. If a license is required, its price is reasonable, the most expensive one being 2,500 Lei (US\$230), except for licenses for gambling and casinos, which are very expensive.

**References:**

Doing Business 2011, Moldova,

<http://www.doingbusiness.org/data/exploreeconomies/moldova#starting-a-business>

Law of the Republic of Moldova on regulation through licensing of the entrepreneurial activity, nr. 451 as of July 30, 2001

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes | No

### Comments:

The regulatory requirements for meeting public health standards are stated in each special law regarding the licensing of different types of activities.

### References:

Law regarding the industrial security of dangerous industrial objects Nr. 803-XIV as of Feb. 11, 2000,

The Law of wine and vineyards, Nr. 57-XVI as of March 10, 2006

Law regarding the fabrication and circulation of alcohol and alcoholic production Nr. 1100-XIV as of June 30, 2000.

All these laws and regulations are publicly available on the web site of the Licensing Chamber:

<http://www.licentiere.gov.md/category.php?!=ro&idc=59&>

**Yes:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes | No

### Comments:

The regulatory requirements for meeting public health standards are comprised in each special law regarding the licensing of different types of activities.

### References:

Law regarding the industrial security of dangerous industrial objects Nr. 803-XIV as of Feb. 11, 2000,

The Law of wine and vineyards, Nr. 57-XVI as of March 10, 2006

Law regarding the fabrication and circulation of alcohol and alcoholic production Nr. 1100-XIV as of June 30, 2000.

All these laws and regulations are publicly available on the web site of the Licensing Chamber:

<http://www.licentiere.gov.md/category.php?!=ro&idc=59&>

**Yes:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes | No

**Comments:**

The regulatory requirements for meeting public health standards are comprised in each special law regarding the licensing of different types of activities.

**References:**

Law regarding the industrial security of dangerous industrial objects Nr.803-XIV as of Feb. 11, 2000,

Law regarding the fabrication and circulation of alcohol and alcoholic production Nr. 1100-XIV as of June 30, 2000.

Government Decision on the Regulation of transport of persons and carriage Nr. 854 as of July 28, 2006

Law on the safe development of nuclear and radiologic activities. Nr. 111-XVI as of May 11, 2006.

All these laws and regulations are publicly available on the web site of the Licensing Chamber, <http://www.licentiere.gov.md/category.php?!=ro&idc=59&>

**Yes:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

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## 72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

42

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Such inspections usually are ad-hoc and with the purpose of collecting bribes, not for discovering and reporting irregularities.

**References:**

Interview with Valeriu Prohntchi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

World Bank, Moldova Country Profile 2009, [http://www.alianta.md/index.php?module=stiri\\_int&news\\_id=73&news\\_cid=4&page\\_art=3](http://www.alianta.md/index.php?module=stiri_int&news_id=73&news_cid=4&page_art=3)

**100:** Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Owners of companies often complain about never-ending inspections that they have to face throughout the year. The inspections have no real impact, and often inspectors expect gifts or money for not reporting irregularities or for just letting people alone to work and not bothering again with another inspection.

**References:**

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

World Bank, Moldova Country Profile 2009,

[http://www.alianta.md/index.php?module=stiri\\_int&news\\_id=73&news\\_cid=4&page\\_art=3](http://www.alianta.md/index.php?module=stiri_int&news_id=73&news_cid=4&page_art=3)

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Valeriu Prohntichi, Executive Director at Expert-Grup Think Tank (<http://www.expert-grup.org>), Nov. 9, 2010

World Bank, Moldova Country Profile 2009,

[http://www.alianta.md/index.php?module=stiri\\_int&news\\_id=73&news\\_cid=4&page\\_art=3](http://www.alianta.md/index.php?module=stiri_int&news_id=73&news_cid=4&page_art=3)

<http://unimedia.md/?mod=news&id=17217>

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

## 6.1. <sup>78</sup>Anti-Corruption Law

---

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes | No

**Comments:**

Article 27 regulates the attempted crime, and it applies to all crimes described in the Criminal Code (i.e. including passive and active corruption):

Article 81 explains further how an attempted crime shall be punished, providing that the verdict for an attempted crime should not be greater than two-thirds of the maximum penalty for a crime that has been actually carried out.

**References:**

Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002.

**Yes:** A YES score is earned if corruption laws include attempted acts.

**No:** A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | No

**Comments:**

The Moldovan Criminal Code provides for two different crimes: active corruption and passive corruption. Passive corruption can be associated with extortion, as it constitutes the deed of the public servant (person with increased responsibility) who demands or receives money, other goods (...), in order to do or not, to accelerate or to delay the fulfillment of an act related to its professional duties, or to perform an action against his/her legal duties (...).

**References:**

Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002, article 324.

**Yes:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**No:** A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

**Comments:**

Active corruption is regulated by article 325 which states: Promise, offer or giving to a person with increased public responsibility, personally or through a third party, of money, goods or services.

At the same time there are two different categories of crimes in Moldova:

1. corruption (active and passive) — addresses only public servants;
2. giving or receiving a bribe — addresses persons who lead an organization, be that a commercial or non-commercial, but not persons in the public sphere.

**References:**

Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002, article 325.

**Yes:** A YES score is earned if offering a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

**Comments:**

There are two different categories of crimes in Moldova:

1. corruption (active and passive) — addresses only public servants, articles 324 and 325 of the Criminal Code
2. giving or receiving a bribe — addresses persons that lead an organization, be that a commercial or non-commercial, but not in the public sphere, articles 333 and 334 of the Criminal Code.

**References:**

Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002

**Yes:** A YES score is earned if receiving a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

**Comments:**

As long as the crime is committed on the territory of the Republic of Moldova, the provisions of the Criminal Code shall apply.

**References:**

Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002, article 325

**Yes:** A YES score is earned if bribing a foreign official is illegal.

**No:** A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes | No

**Comments:**

Article 327 regulates the abuse of power and abuse of position.

**References:**

Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002, article 327

**Yes:** A YES score is earned if using public resources for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

Yes | No

**References:**

Divulging of state secrets is regulated by article 344 of the Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002

**Yes:** A YES score is earned if using confidential state information for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

Yes | No

**Comments:**

Money laundering is illegal as stated in Article 243 of the Criminal Code.

**References:**

Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002

**Yes:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**No:** A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes | No

**References:**

Criminal participation and organized crime is regulated by articles 41-47 of the Criminal Code of the Republic of Moldova, nr. 958-XV, as of April 18, 2002

**Yes:** A YES score is earned if organized crime is illegal.

**No:** A NO score is earned if this is not illegal.

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## 6.2. Anti-Corruption Agency or Equivalent Mechanisms

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74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

**Comments:**

The Center for Combating Economic Crimes and Corruption is legally mandated to address corruption.

**References:**

Law of the Republic of Moldova on prevention and combating corruption, nr. 90-XVI as of April 25, 2008, article 13

**Yes:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**No:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

---

75. Is the anti-corruption agency effective?

75

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | No

**Comments:**

According to article 8, the Center is independent in exercising its activities and defining its action plan.

**References:**

Law of the Republic of Moldova on the Center for Combating Economic Crimes and Corruption, nr. 1104-XV as of June 6, 2002

**Yes:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by

partisans.

**No:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The chief of the agency is designated by the government. So far, a new chief has taken charge each time a new Government has come into office.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

The individuals hired by the Center for Combating Economic Crimes and Corruption are professional staff and pass rigorous tests before employment. However, cases of personal affiliations exist.

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>). Oct. 25, 2010, Chisinau

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>). Oct. 25, 2010, Chisinau

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>). Oct. 25, 2010, Chisinau

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

---

76. Can citizens access the anti-corruption agency?

75

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Cristina Cojocaru, MA in Law, lawyer and project coordinator at Center for Analysis and Prevention of Corruption (<http://www.capc.md>), Oct. 25, 2010, Chisinau

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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83  
6.3. Judicial Independence, Fairness, and Citizen Access to Justice

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77. Is there an appeals mechanism for challenging criminal judgments?

67

77a. In law, there is a general right of appeal.

Yes | No

**Comments:**

Chapter IV of the Criminal Procedure Code provides for the ways to appeal criminal judgments.

**References:**

Criminal Procedure Code of the Republic of Moldova, nr. 122-XV, as of March 14, 2003.

**Yes:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**No:** A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Even though judicial reform is being implemented and progress is visible in many areas, there are delays and backlogs in examining cases in Moldova. This is one of the reasons why it receives a negative report from the European Court of Human Rights. The length of the process depends on the complexity of the case — some cases can be resolved in one to two months, while others might take years.

**References:**

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

Study on the complex analysis of the legislative-institutional reasons for Moldova's condemnation by the ECHR, Igor Dolea, Ion Cretu, Vasile Rotaru, Chisinau 2009, <http://www.irp.md/biblioteca.php>

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The cost of filing an action in court depends a lot on the type of action. There are fixed fees and fees set as percentage related to the object of the dispute.

The costs of hiring an attorney are not small (a simple case might cost between US\$500-1000). Until 2012, however, citizens can represent themselves or contract any other person (not necessarily someone with an attorney's license) to represent their interests, with one exception — criminal cases. One also has to take into account that according to Moldovan legislation, the fees incurred during the process shall be reimbursed by the losing party at the end of the trial.

**References:**

Study on the complex analysis of the legislative-institutional reasons for Moldova's condemnation by the ECHR, Igor Dolea, Ion Cretu, Vasile Rotaru, Chisinau 2009, <http://www.irp.md/biblioteca.php>

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

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78. In practice, do judgments in the criminal system follow written law?

50

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**References:**

Tanase (current Minister of Justice) admits that 60 percent of judges are corrupt or incompetent, Sept. 1, 2010, <http://www.jurnal.md/ro/news/tanase-recunoa-te-ca-60-din-judecatori-sunt-corup-ti-incompeten-ti-191992/>

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

---

## 79. In practice, are judicial decisions enforced by the state?

50

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

### Comments:

Moldova lost a high number of cases at the European Court of Human Rights (ECHR) on its refusal to enforce ECHR judgments. Often judgments remain unenforced by state authorities on such grounds as "lack of financial resources," "lack of dwelling space" (in cases where, by law, certain categories of citizens have to be provided with dwelling space), etc. Even today, some local and central authorities refuse to fulfill judgments, thus forcing citizens to complain to the ECHR.

### References:

Study on the complex analysis of the legislative-institutional reasons for Moldova's condemnation by the ECHR, Igor Dolea, Ion Cretu, Vasile Rotaru, Chisinau 2009, <http://www.irp.md/biblioteca.php>

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

---

## 80. Is the judiciary able to act independently?

63

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

### Comments:

Judicial power is independent, separated from the legislative and executive branches (...). The financial means necessary for a good functioning of the courts are approved by Parliament on the proposal of the Supreme Council of Magistrates and are included into the state budget. These finances cannot be decreased without the consent of the Supreme Council of Magistrates and are being allocated regularly.

### References:

Law of the Republic of Moldova on judicial organization, nr. 514 as of July 6, 1995, articles 1 and 22.

**Yes:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

**No:** A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Legally, judges are independent, including from the political factor. Yet, in practice, the so-called "telephone justice" (when political figures influence judges in adopting certain decisions) is present, and also are other ways of diminishing judges' impartiality.

**References:**

Tanase (current minister of Justice) admits that 60 percent of judges are corrupt or incompetent, Sept. 1, 2010, <http://www.jurnal.md/ro/news/tanase-recunoa-te-ca-60-din-judecatori-sunt-corup-i-i-incompeten-i-191992/>

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes | No

**Comments:**

The president of the court organizes the distribution of the cases and can influence or be influenced by judges in the process of distribution of cases.

**References:**

Law of the Republic of Moldova on judicial organization, nr. 514 as of July 6, 1995, articles 27, paragraph 1, sub-point j).

**Yes:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**No:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes | No

**Comments:**

Judges are not removable, except for cases where they fail to respect the law and commit one of the disciplinary abuses expressly described in the law.

**References:**

Law of the Republic of Moldova on the status of judges, nr. 544 as of July 20, 1995, articles 18 and 25.

**Yes:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**No:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

---

## 81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes | No

**Comments:**

No such cases were reported.

**References:**

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**Yes:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

**Comments:**

No such cases were reported.

**References:**

Judicial Reform Index for Moldova, American Bar Association, June 2009, page 73, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**Yes:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on

corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

## 82. Do citizens have equal access to the justice system?

82

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

### Comments:

No cases of racial discrimination within the judicial system have been reported in the past years.

### References:

Study on the complex analysis of the legislative-institutional reasons for Moldova's condemnation by the ECHR, Igor Dolea, Ion Cretu, Vasile Rotaru, Chisinau 2009, <http://www.irp.md/biblioteca.php>

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

<http://www.nediscriminare.md/index.php?module=news>

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

### Comments:

Women enjoy equal rights before the courts.

### References:

<http://www.progen.md/index.php?mod=home&hmod=news&nmod=national>

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes | No

**References:**

The right to receive legal counsel (to be assisted by an attorney paid by the state) is guaranteed by the Criminal Procedure Code of the Republic of Moldova, nr. 122, as of March 14, 2003, and the Law on legal counsel guaranteed by the state, nr. 198 as of July 26, 2007

**Yes:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**No:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

**Comments:**

The state provides basic legal aid for defendants whose monthly income is beyond the minimum existence level. Besides the state, there are a number of public associations who provide qualified legal aid:

<http://www.ro.greenmedia.md/asistenta-juridica-gratuita-55.html>,

[http://www.irp.md/news.php?news\\_id=278](http://www.irp.md/news.php?news_id=278),

<http://www.timpul.md/.../lista-avocailor-care-acorda-asistenta-juridica-gratuita-persoanelor-arestate-1545.html>

**References:**

<http://www.parlamentulinerilor.md/juridica/asisten-juridic-garantat-de-stat>

[http://www.coe.md/index.php?option=com\\_content&view=article&id=168:guide-sgla&catid=40:press-releases-&Itemid=55](http://www.coe.md/index.php?option=com_content&view=article&id=168:guide-sgla&catid=40:press-releases-&Itemid=55) (←ro

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

**Comments:**

The state fee for filing a case is relatively high compared to the average income in Moldova. Depending on the type of the action, in commercial or property related actions, the state fee is calculated as percentage from the overall claim, otherwise, there is a fixed fee, which is lower.

The fee for hiring an attorney is also relatively high compared to the average income in Moldova.

**References:**

Study on the complex analysis of the legislative-institutional reasons for Moldova's condemnation by the ECHR, Igor Dolea, Ion Cretu, Vasile Rotaru, Chisinau 2009, <http://www.irp.md/biblioteca.php>

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

**Comments:**

In commercial matters, the state fee is calculated as a percentage from the overall claim, and might get quite high, depending on the case. The attorney fees are not small, although a small business usually has more financial resources than an average citizen.

**References:**

Study on the complex analysis of the legislative-institutional reasons for Moldova's condemnation by the ECHR, Igor Dolea, Ion Cretu, Vasile Rotaru, Chisinau 2009, <http://www.irp.md/biblioteca.php>

Judicial Reform Index for Moldova, American Bar Association, June 2009, [http://www.abanet.org/rol/publications/moldova\\_jri\\_06\\_2009.pdf](http://www.abanet.org/rol/publications/moldova_jri_06_2009.pdf)

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

**Comments:**

Courthouses are present in each rayon (administrative territorial unit) of Moldova. Yet, people from the countryside have to spend money and time to travel to the rayon center if they have to participate in a trial. Several civil society initiatives have been launched with the aim to facilitate the access to justice for people in the rural areas (such as, for example the community based paralegal services initiative by Soros Foundation, <http://www.soros.md/en/law/acces>).

**References:**

List of courthouses in Moldova, <http://www.justice.gov.md/ro/judecatorii/>

Study on the complex analysis of the legislative-institutional reasons for Moldova's condemnation by the ECHR, Igor Dolea, Ion Cretu, Vasile Rotaru, Chisinau 2009, <http://www.irp.md/biblioteca.php>

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

**0:** Courts are unavailable to some regions without significant travel on the part of citizens.

## 6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

### 83. Is the law enforcement agency (i.e. the police) effective?

50

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

**Comments:**

The Center for Combating Economic Crimes and Corruption has started to hire staff based on public competition and rigorous examinations. The police authorities still lack a transparent a professional way of recruitment and this is visible by many cases of corruption and abuse, and still present cases of mistreatment by police.

**References:**

Evaluation of the Torture and Inhuman Treatment Phenomenon in Police Custody, CReDO, Serghei Ostaf, 2010

Moldova NGO Report, Replies to the List of Issues, CReDO, Moldova Institute for Human Rights, Promo-Lex, National Roma Center, September 2009

Interview with Dumitru Ursachi, Deputy Minister for Internal Affairs, <http://gadianul.md/?p=1169>, Oct. 21, 2010

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

Among problems noted by national and international experts is the insufficient funding for performing investigative activities that lead to cases of torture by police officers who aim to obtain testimony by "old means". Low salaries and cuts of a series of additional payments (as of Jan. 1, 2010) also influences police activity.

**References:**

Evaluation of the Torture and Inhuman Treatment Phenomenon in Police Custody, CReDO, Serghei Ostaf, 2010

Moldova NGO Report, Replies to the List of Issues, CReDO, Moldova Institute for Human Rights, Promo-Lex, National Roma Center, September 2009

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

During the April 2009 events, the police were clearly acting on political orders. On a day-to-day basis, the "telephone" principle (i.e., orders from above) is in place within law enforcement agencies.

**References:**

Evaluation of the Torture and Inhuman Treatment Phenomenon in Police Custody, CReDO, Serghei Ostaf, 2010

Moldova NGO Report, Replies to the List of Issues, CReDO, Moldova Institute for Human Rights, Promo-Lex, National Roma Center, September 2009

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

## 84. Can law enforcement officials be held accountable for their actions?

71

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

### Comments:

Citizens complaints against police actions are to be addressed to the head of the institution in which the respective police officer works. If the citizen is unsatisfied with the solution given by the chief of the institution, he or she can file an action in the court, through the Prosecutor's office or independently.

At the same time, the Center for Combating Economic Crimes and Corruption has jurisdiction over the police, in cases related to corruption.

Citizens can also complain to the parliamentary advocates (ombudsmen). Additionally, the Ministry of Interior's internal investigation department takes complaints on police actions.

### References:

Law of the Republic of Moldova on police, nr. 416, as of Dec. 18,1990

**Yes:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**No:** A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

The Center for Combating Economic Crimes and Corruption is more active in reacting to citizens' complaints (but it covers corruption-related cases). Otherwise, the Ministry of Interior and the Prosecutor's Office are highly influenced by political power, and as demonstrated by the April 2009 events, in some cases absolutely no action is taken in response to citizens' complaints. The situation has slightly improved since April 2009, but considerable change in the law enforcement will take years to happen.

### References:

Evaluation of the Torture and Inhuman Treatment Phenomenon in Police Custody, CReDO, Serghei Ostaf, 2010

Moldova NGO Report, Replies to the List of Issues, CReDO, Moldova Institute for Human Rights, Promo-Lex, National Roma Center, September 2009

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | No

**Comments:**

Cases related to corruption committed by law enforcement officials are investigated by the Center for Combating Economic Crimes and Corruption.

Although the law does not say clearly that it should investigate corruptions acts by police officers, the activity spectrum of the Center is as large as the legal norms related to corruption, money laundering, and economic crimes.

**References:**

Law of the Republic of Moldova on the Center for Combating Economic Crimes and Corruption, nr. 1104-XV as of June 6, 200

**Yes:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**No:** A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

**Comments:**

The Center for Combating Economic Crimes in Corruption is quite active in investigating and discovering corruption-related cases among police officers. The internal security divisions of the law enforcement bodies are less active in this matter.

**References:**

Arrest of Three Officers of the Ministry of Interior for Cases of Corruption, July 26, 2010,  
<http://www.cceec.md/news/?nid=cd7304e0d2bce1f20672c278da04fe22>

<http://m.protv.md/stiri/social/politistii-retinuti-pentru-luare-de-mita-arestati-pentru-15-zile.html>

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | No

**Comments:**

For illegal activities, the police officers shall be held liable in accordance with the legislation and the Disciplinary Statutes of the Interior Authorities, approved by the government. Further, the law on police does not mention any kind of immunity against criminal proceedings.

**References:**

Law of the Republic of Moldova on Police, nr. 416, as of Dec. 18, 1990, article 26.

**Yes:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**No:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

**Comments:**

Policemen are perceived by citizens as being the most corrupt officials (<http://www.cccec.md/news/?nid=c6baed65f2ac50e6585c409b3e11603b>). They are not exempted from investigations; however, cases of arrest and punishment are rare compared to the degree of misconduct.

**References:**

<http://m.protv.md/stiri/social/politistii-retinuti-pentru-luare-de-mita-arestati-pentru-15-zile.html>

Evaluation of the Torture and Inhuman Treatment Phenomenon in Police Custody, CReDO, Serghei Ostaf, 2010, <http://www.cccec.md/news/?nid=cd7304e0d2bce1f20672c278da04fe22>

<http://www.cccec.md/news/?nid=c6baed65f2ac50e6585c409b3e11603b>

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.