



Republic of Moldova

NATIONAL REPORT

**PROGRESSES AND PERSPECTIVES
IN REPRESSING CORRUPTION**

Chisinau, 2009

NATIONAL REPORT

Centre for Combating Economic Crimes and Corruption

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Abbreviation list

C.C.E.C.C.	Centre on Combating Economic Crimes and Corruption
M.I.	Ministry of Interior
S.C.M.	Supreme Council of Magistrates
N.I.J.	National Institute of Justice
A.M.R.P.P.H.A.	Agency for Material Reserves, Public Procurements and Humanitarian Assistance
TI – Moldova	Transparency International - Moldova
C.A.P.C.	Nongovernmental organisation „Centre for the Analysis and Prevention of Corruption”
„Access- info” Centre	Centre for promoting the freedom of speech and access to information
E.D.A.	Educational Development Academy
GRECO	Group of States Against Corruption
RAI	Regional Anticorruption Initiative
IAACA	International Association of Anti-Corruption Authorities
EUBAM	European Union Border Assistance Mission
MOLICO Project	Joint Project of the Council of Europe and European Commission against corruption, money laundering and financing the terrorism in the Republic of Moldova, cosponsored by European Commission, Swedish International Development Cooperation Agency and Council of Europe (MOLICO)
TCP	Threshold Country Programme in framework of the „Millennium Challenge” Programme, sponsored by US Government through „Millennium Challenge Corporation” and managed by the United States Agency for International Development (USAID)
National Anticorruption Strategy	National Strategy on preventing and fighting corruption, adopted by Parliamentary Decision no.421-XV of 16.12.2004
EU-Moldova Action Plan	European Union – Republic of Moldova Action Plan
PCA	Partnership and Cooperation Agreement

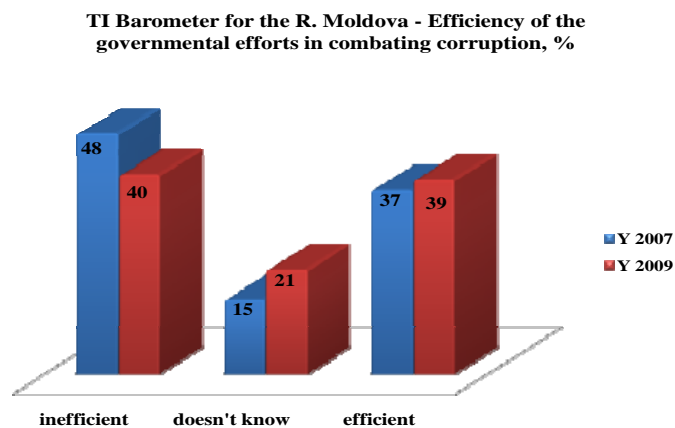
INTRODUCTION

The issue of corruption in the Republic of Moldova is still one of the main reasons of maintaining and enhancing the poverty, affecting the development of democratic values and undermining from inside the country's aspirations for European integration.

Preventing and combating corruption was permanently highlighted in the state policy, by implementing various policy documents. Coherent and planned actions on fighting corruption were launched along the enforcement of the National Strategy on preventing and combating corruption, adopted by the Decision of Moldovan Parliament no. 421-XV dated on 16.12.2004.

The Action Plan for implementation of the National Anticorruption Strategy was supported by civil society and international community, and programmes and initiatives both on national and international level had a positive effect on awareness raising and perception of corruption as a problem in the Republic of Moldova¹.

A direct indicator of the successfulness of anticorruption policies, implemented by governmental authorities, is reflected in Global Corruption Barometer². According to TI 2009 Barometer, about 39 percent of Moldovan respondents assess as efficient the state's efforts in repressing corruption, this indicator being bigger by 2 points comparative with 2007. However, the number of respondents considering these efforts as being inefficient is still high (40% in 2009).



Even more pessimistic are the conclusions drawn in the assessments made by the Institute of Public Policies. According to the Public Opinion Barometer of the Republic of Moldova (July 2009), only 12.5% of respondents are satisfied with the

¹ Freedom House Report "Nations in transit", www.freedomhouse.org.

² Global Corruption Barometer reflects the citizens' perception and is being used by Transparency International as a tool to measure the level of corruption in the country. Republic of Moldova was included in this survey in 2004, being qualified as a New Independent State.

efforts undertaken by country leadership in combating corruption. In February 2005 – March 2009 this indicator has varied between 7.5% and 17%³.

According to the opinions expressed by the national and foreign experts, Republic of Moldova is characterised as a state that has modest successes in anticorruption process, and this phenomenon is still undermining the country's political and economic stability, the rule of law etc.

The rating on „corruption” within the survey „Nations in transit”, issued on yearly basis by Freedom House⁴, remains unchanged. Within the classification based on a rating from 1 to 7, where 1 represents the highest level of democratic progress, and 7 – the lowest, corruption in the Republic of Moldova rates 6. This score influences the average of other scores on other categories included in the rating, and as result it determines a lowered level of democracy in the country (table 1).

Table 1.

Democratisation progress of the Republic of Moldova

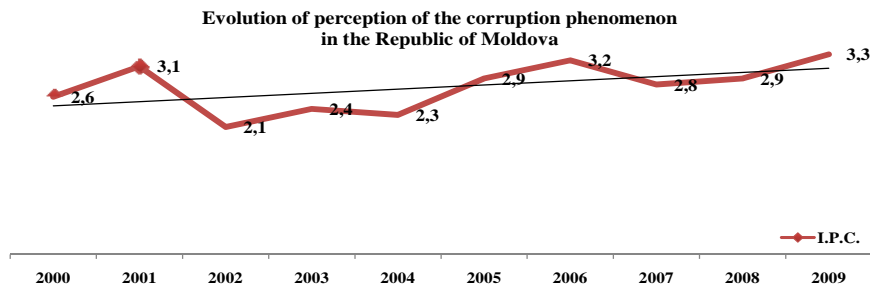
Categories/Period	2001	2002	2003	2004	2005	2006	2007	2008	2009
Democracy score	4.29	4.50	4.71	4.88	5.07	4.96	4.96	5.00	5.07
Corruption	6.00	6.25	6.25	6.25	6.25	6.00	6.00	6.00	6.00
Independence of justice	4.00	4.00	4.50	4.50	4.75	4.50	4.50	4.50	4.50
National democratic governance	n/a	n/a	n/a	n/a	5.75	5.75	5.75	5.75	5.75
Local democratic governance	n/a	n/a	n/a	n/a	5.75	5.75	5.75	5.75	5.75
Independent media	4.25	4.50	4.75	5.00	5.00	5.00	5.25	5.50	5.75
Civil society	3.75	4.00	3.75	4.00	4.00	4.00	3.75	3.75	3.75
Electoral process	3.25	3.50	3.75	4.00	4.00	3.75	3.75	3.75	4.00

A more optimistic situation represents the Corruption Perceptions Index (ICP) of Transparency International – 2009, according to which Republic of Moldova marked in 2009 the highest score comparative with the last 5 years, that is 3.3 points, ranking 92nd out of 180 countries included in this rating. According to TI – Moldova, this signifies an improved situation in the field of preventing and combating corruption, which can be explained by substantial „investments” in preventing and combating corruption, made by some foreign donors (Millennium Challenge Corporation – over USD 24 mln., Council of Europe – over Euro 3.5 mln., UNDP – USD 400 thousand), and radical change of state power, which is encouraging for future expectations regarding the corruption level. Thus, when in 2001 essential changes occurred on political spectrum, the expectations regarding perspective of combating corruption were more pessimistic and CPI decreased from 3.1 to 2.1 points. And the opposite, in 2009, following another

³ *Public Opinion Barometer in RM, July 2009, accomplished by Centre of Sociological Investigations and Marketing „CBS-AXA”, www.ipp.md/barometru/2009.*

⁴ *“Nations in transit”, a survey that makes attempts to measure the progress and degradation of democracy level in 29 states, www.freedomhouse.org.*

radical change of governance, the expectations became more optimistic and CPI increased from 2.9 to 3.3 points⁵.



Recent development of reforms shows that Republic of Moldova has a well-defined purpose to repress corruption, at the same time being necessary to assure the continuity by coherent promotion and development of some new policies in this area.

Present report was developed in order to assess the developments achieved by the Republic of Moldova in implementing the anticorruption policies, to identify the deficiencies hampering the achievement of expected result and to determine the activities that have to be accomplished in the future. Anticorruption activities, described in report, are assessed in the light of the *Action Plan for implementation of the National Anticorruption Strategy for 2007-2009* and the *Action Programme for implementing CTP*.

The structure of this report is determined by the structure of the National Anticorruption Strategy and the Action Plan for its accomplishment. Therefore, this report includes five chapters on legislative reforms, measures for preventing and combating corruption, international cooperation in this regard and monitoring the anticorruption policy documents. Each chapter is presented under the development aspect, showing the deficiencies and conclusions, and the report ends with highlighting the priorities to be implemented in 2010.

According to item 3.3 of the National Anticorruption Strategy, the report shall be developed on yearly basis by the Group for monitoring the implementation of the National Anticorruption Strategy, with the assistance provided by C.C.E.C.C. Taking into account the norms set out in the Methodology for monitoring and assessing the National Anticorruption Strategy⁶, the information reflected in report shall be selected from: reports issued by public authorities, official websites of institutions, monitoring reports of public institutions, developed by representatives of civil society, media outlets, surveys, development reports, developed both by national and international experts.

⁵ CPI reflects the level of corruption perception and represents an aggregated indicator assessed on basis of opinions expressed by experts and analysts in the field of business environment, www.transparency.org and www.transparency.md

⁶ Methodology approved by Monitoring group and published on www.cceec.md

I. STRENGTHENING THE LEGISLATIVE FRAMEWORK AND LAW ENFORCEMENT

One of the key-objectives of the National Anticorruption Strategy is the implementation of a legislative reform, designed to establish a stable and coherent normative framework, excluding contradictions and ambiguities that result in double interpretation of legislation, which is a major risk favouring corruption.

Developments

Given the importance of revealing corruption, particularly its possible effects on state, regional or global level, the fight against this phenomenon got materialised in a number of international instruments constituting a wide framework of international cooperation and, not least of all, a proof for particular concern of the international community about combating this phenomenon that is hard to prevent.

The main international instruments on preventing and combating corruption, ratified by the Republic of Moldova, are:

- United Nations Convention against corruption, ratified by the Law no.158-XVI of 06.07.2007;
- Civil convention on corruption, ratified by the Law no.542-XV of 19.12.2003;
- Criminal Convention on corruption, ratified by the Law no.428-XV of 30.10.2003, and the Additional Protocol to Criminal Convention on corruption, ratified by the Law no.157-XVI of 06.07.2007.

Ratification of these documents determines the obligation to adjust the national legislative framework to the international standards, including the *acquis communautaire*.

Implementation of international instruments in this area was assured by adoption of a number of legislative acts, including the following:

- Law no.90-XVI of 25.04.2008 „On preventing and combating corruption”;
- Law no.25-XVI of 22.02.2008 „On the Code of conduct of the civil servant”;
- Law no.16-XVI of 15.02.2008 „On the conflict of interests”;
- Law no.158-XVI of 04.07.2008 „On the public position and the status of civil servant”;
- Law no.271 –XVI of 18.12.2008 „On verification of public office holders and candidates to public positions”;
- Law no.239-XVI of 13.11.2008 „ On transparency in decision-making process”;
- Law no.294- XVI of 25.12.2008 „On Prosecution Service”;
- Law no.261-XVI of 05.12.2008 „On Court of Accounts”;
- Law no.175-XVI of 10.07.2008 “On modifying and completing the Law on custom control service no.1150-XIV of 20 July 2000”;
- Law no.294-XVI of 21.12.2007 „On political parties”;
- Law no.105-XVI of 16.05.2008 „On protection of witnesses and other participants to the criminal process” etc.

Legislative developments were witness in justice and private areas⁷.

The fulfilment of commitments assumed by the Republic of Moldova by joining the international legal anticorruption instruments is being monitored by GRECO by means of dynamic assessment process and mutual influences. During the last three years, GRECO has adopted 2 reports on Moldova.

The Addendum to the Concordance Report for the first round of assessment, adopted in February 2008, has closed the procedure for the Republic of Moldova, which fully implemented 13 out of 14 recommendations put forward by GRECO and 1 is partially implemented (it is about approbation and consideration of the Code of conduct of the civil servant).

The second Concordance Report for the second round of assessment was adopted in December 2008. GRECO decided on full enforcement by the Republic of Moldova or satisfactory treatment of 9 out of 15 recommendations, 6 recommendations being partially implemented. In conclusion, GRECO considers that Republic of Moldova has achieved a significant progress in implementing the recommendations, by enforcing almost two thirds of recommendations included in the assessment report for second cycle⁸.

The development in fulfilling the legislative reform and undertaking its enforcement was also mentioned in the Report of the EU Committee on the developments in the Republic of Moldova⁹.

Deficiencies

Although 2008 is considered a year of radical turning point in strengthening the efforts for implementing the legislative reform, this area still faces a number of deficiencies and problems.

Table 2

Category VI	2007	2008
„Anticorruption and rule of law” includes the following integrity indicators:		
VI-1 „Anticorruption legislation”	100 strongest	100 strongest
VI-4 „Law enforcement”	33 weakest	56 weakest

Republic of Moldova has a rather high score in category „Anticorruption legislation” according to the Global Integrity Report¹⁰, yearly developed by non profit organisation Global Integrity. At the same time, the expert conclusions are based on the fact that national legislation sanctions corruption, but doesn't pay sufficient attention to the adjustment of legislative framework to the international anticorruption instruments. In category „Law enforcement” this score is weak and,

⁷ see the National Anticorruption Report – 2008, chapter I, www.cceec.md.

⁸ RM Concordance Reports, www.coe.int/greco

⁹ RM Development Report, EU Commission, Brussels SEC (April, 2009).

¹⁰ www.report.globalintegrity.org.

regardless of insignificant growth comparative with 2007, it reaches just 56 points out of 100 (Table 2).

Therefore, two major deficiencies, repeatedly mentioned by experts, as well as conclusions of national anticorruption reports in 2006-2008, are the arrears in implementing the international instruments and the lack of real mechanisms for enforcing the normative anticorruption framework. National and foreign experts have particularly focused on the following legislative acts¹¹:

Law on preventing and combating corruption doesn't include the basic international standards GRECO recommends to the Republic of Moldova. For instance, the definition of „corruption” doesn't correspond to norms, incrimination of corruption is incorrect and doesn't comply with international conventions, the law doesn't make particular references to corruption in private sector and doesn't take in consideration the notion of „public agent”, stipulated in conventions. Some other shortcomings are revealed concerning the measures on preventing corruption, immunities or privileges of jurisdiction, liabilities, including the liabilities of juridical persons, protection of persons, consequences of corruption etc.

Law on conflict of interests makes erroneous interpretation of the notion of „conflict of interests” and „personal interest”, has a narrow approach of the categories of close persons, doesn't stipulate a number of obligations and responsibilities of the public institutions concerning the settlement of the conflict of interests. Although it is already over one year since the law was adopted, this law is not operating yet. Parliament didn't approve the Regulation concerning the procedure of establishing and functioning of the Main Committee on Ethics, as well as its composition. There is no model and rules for filling in the declaration of personal interest, which, according to the provision of the above-mentioned law, have to be approved by the Main Committee on Ethics.

Law on the Code of conduct of public servant doesn't regulate the independent body for supervising the implementation and observance of law, such as the Main Committee on Ethics. The law doesn't include such norms as: the obligation to report about deviations from the code and sanctions for non-reporting, liability of seniors for non-observance of the code, and the provision concerning presents and favours (accepting gifts limited to one minimum national salary) create conditions for legalisation of small corruption.

Law on political parties doesn't assure a full transparency and supervision over political parties and the regulation concerning financial acts is not considered as being sufficiently restrictive and adequate to prevent the political corruption. For instance, the law doesn't have a clear delimitation between financing political

¹¹- *Project Against Corruption, Money Laundering and Financing the Terrorism in RM „MOLICO”, Final Report, July 2009, www.coe.int.*

-*Press release TI – Moldova „Launching the Corruption Perception Index – 2008”, www.transparency.md.*

- *„Implementation of international anticorruption norms in national legislation”, Materials of Conference on „Monitoring anticorruption policies in RM”, 4 November 2009.*

parties and financing electoral campaign and political activities of elected representatives. The norms for assuring transparency in political financing are insufficient, particularly the law doesn't regulate the public character of financing political parties between elections and the norms concerning public character of information about electoral financing are incomplete. A particular concern is raised by the donations, which are in contradictions with the principles on donations recommended by the Council of Europe¹². The law doesn't regulate the supervision over financing the political parties and electoral campaigns, its independent supervision body and its competences, the chapters regarding liabilities and sanctions, as well as a range of other gaps and imperfections.

Law on declaration and supervision of the property of state officials, judges, prosecutors, civil servants and some persons with leadership positions is imperfect, and the amendments operated meanwhile created new deficiencies, which didn't result in increased efficiency of adopted regulations. There are obvious discordances between stipulations of law and the attached declaration form, and this generates diversified practices of interpreting the incomes and assets to be declared, hampers the accomplishment of preliminary qualitative control and de facto of declarations, this doesn't assure the necessary transparency, what makes difficult the public control in this field¹³.

Imperfect mechanisms of implementing the normative anticorruption framework or lack of them have entailed the lack of result expected from the adopted laws. A number of secondary normative acts, developed for applying the legislative framework adopted in 2008, have been not considered in 2009 by the Government and Parliament.

Conclusions

Within the period of reference, preponderantly in 2008, a range of legislative acts were adopted concerning important administrative tools for preventing corruption. At the same time, these include some gaps and doesn't meet in total the norms imposed by international instruments, and the lack of efficient mechanisms to apply them lessens the expected effect.

¹² Recommendation Rec. (2003) 4 on general rules against the corruption in financing political parties and electoral campaigns, Committee of Ministries for member states, Council of Europe, 08.04.2003.

¹³ Survey on "Declaration of assets and revenues of state officials, judges, prosecutors, civil servants and persons with responsible positions: problems and settlement perspectives for RM", accomplished with the support of Eurasia Foundation in framework of Anticorruption Alliance by CCAP.

II. CORRUPTION PREVENTION

An important aspect, a novelty within the National Anticorruption Strategy is its basic focus on anticorruption prevention and prophylaxis of this antisocial phenomenon.

Preventive measures, included in the Action Plan for implementing the National Anticorruption Strategy for 2007-2009, also relies on developing the legislative framework by applying anticorruption expertise, increasing the efficiency of institutional framework, identifying the areas of higher advanced risk and assessing the vulnerability to corruption, assuring transparency of the public activities and civic education.

2.1. Corruption proofing expertise

Corruption proofing expertise for the draft legislative and normative acts of the Government is an instrument of particular importance in the field of corruption prevention that assesses the compliance of the content of the draft legislative and normative act to anticorruption standards in order to identify the norms that favours or may favour corruption and to develop recommendations for excluding or diminishing their effect.

The Corruption proofing expertise activity was launched in the Republic of Moldova as an initiative of the civil society on 1 July 2006, implemented by C.C.A.P., with the financial support of Eurasia Foundation. C.A.P.C. has developed and made public on its site an expertise methodology. The civil society initiative has inspired the state authorities, which in August 2008 adopted the *Governmental Decision no.977 from 23.08.2006*, whereby C.C.E.C.C. is appointed as the body responsible for anticorruption expertise, establishing the compulsoriness of such expertise by amendments to Art.22 in the *Law on legislative acts* and Art.41 in the *Law on normative acts of the Government and other authorities of local and central public administration*.

C.C.E.C.C. and C.A.P.C. provide Corruption proofing expertise in basis of standardised procedures. The methodology for making Corruption proofing expertise on draft legislative and normative acts of Government, approved by C.C.E.C.C. decision in May 2007, was developed in partnership with C.A.P.C. and assistance of Council of Europe' experts from *MOLICO Project*. In framework of this project, C.A.P.C. has developed and published theoretical-practical Guidelines on providing Corruption proofing expertise for draft legislative and normative acts of the Government.

Starting with October 2006 until June 2009, C.A.P.C. experts, jointly with the C.C.E.C.C., have organised and held 33 trainings for representatives of central and local administration of the Republic of Moldova, the basic purpose of which was to

disseminate the C.A.P.C. and C.C.E.C.C. Methodology of corruptibility expertise and good practices in this regard. Within these trainings about 400 persons were trained – representatives of various subdivisions of local and central public administration, who are involved in drafting normative acts.

It's worthwhile noticing that the practice of anticorruption expertise, as it is applied in Moldova, was also disseminated internationally by means of the same project: at the 38th GRECO plenary session in Strasbourg, France, 9 – 13 June 2008, in framework of some International Roundtables held in Moscow, Russia Federation, 24 – 25 June 2008, and in Kiev, Ukraine, 16 October 2008.

C.C.E.C.C. corruption proofing expertise

The task to provide Corruption proofing expertise on draft legislative and normative acts of the Government comes upon C.C.E.C.C., following the Art.5 par.(1) let.(d) of the Law no.1104-XV from 06.06.2002 „On the Centre for Combating Economic Crimes and Corruption”.

Developments

In 2007-2009, C.C.E.C.C. was requested to provide Corruption proofing expertise on **718** draft legislative and normative acts, by providing **389** reports, which are published on C.C.E.C.C. site (www.cceec.md/texts).

Following the requests, in 2007, the expertise was provided for **222** draft legislative and normative acts and **105** anticorruption reports were developed. In 2008, the expertise was provided for **268** drafts, including **102** legislative drafts and **164** governmental draft decisions. Following this expertise activities, **56** anticorruption reports were developed.

The difference between the number of drafts submitted for expertise and number of developed reports during 2007 and 2008 is explicable by the fact that C.C.E.C.C. used to develop reports on complex drafts, covering a wide range of corruptibility factors, and the rest of drafts were dealt with just as far as the analysis of factors and diminishment recommendations is concerned. The situation was changed in 2009 when C.C.E.C.C. experts, by using the anticorruption software (developed in framework of *MOLICO Project*, with the support of C.C.A.P.), have developed expertise reports for all received drafts.

Thus, during the current year the expertise was provided for **228** drafts, including **59** draft laws and **169** draft normative acts.

The analysis on the number of drafts submitted for Corruption proofing expertise shows that most active authors are the Ministry of Justice, Ministry of Agriculture and Food Industry and the Ministry of Economy. At the same time, some ministries refrain sometimes from submitting their drafts for Corruption proofing expertise before submitting them to the Government for adoption.

Within the anticorruption expertise, the drafts undergo through general assessment, and the conclusion to be drawn is that the most numerous acts submitted for expertise are those of judiciary (**64%**), interior, human rights and freedoms, followed by economy and trade – **20.72%**. The fewest drafts undergoing through expertise are those from education, culture, cults and media – just **3.15%**.

Out of total number of assessed draft acts, **51%** are drafts of integral acts and **34%** are drafts of acts on amendments.

C.C.E.C.C. decides to check within its expertise also the compliance to the provisions of the *Law on decision-making transparency*. This assessment revealed that only **62%** of authors observed the requirements of this law. The rest of assessed drafts (**38%**), which is a rather high number, have been not even published on official sites of the authorities concerned. Therefore, the drafts have been not consulted by the society.

Another grave problem, although it was also pointed out in previous reports, is the insufficiency of economic-financial substantiation of the drafts. During 2009, about **67.50%** of draft legislative and normative acts had a weak economic-financial assessment or didn't have it at all, although the enforcement of those provisions would involve financial resources. Therefore, some of promoted drafts lack the financial coverage, and this will generate difficulties at the implementation stage.

Another alarming finding, identified by experts, represents the small number of reports undergoing through the regulatory impact analysis. Just **30%** of drafts eligible for such analysis (**21%** out of the total number of drafts undergoing through anticorruption expertise) have met the requirements of the *Law no. 235-XVI from 20.07.2006 „On basic principles regulating the entrepreneurship activity”*. Such figure determines an advanced risk in creating unfavourable legal framework for business environment and investment climate for social-economic development, particularly under conditions of current crisis.

With direct reference to the corruptibility factors identified in the assessed drafts, the linguistic ambiguity is to be noted as a frequent factor (**30%** out of all identified factors), which provide the decision-maker with the possibility to interpret the norm in preferable form, which generates in dangerous corruptible practice. Another frequent factor within the drafts concerns the excessive discretions/discrepancies of public authorities (**21%**), followed by norms of reference, blanks or white norms – **19%**). These factors, as well as others identified within the draft acts, at the implementation stage could provide the authorities concerned with the opportunities to create favourable conditions for their activities, even if in detriment of public interest. In **228** assessed drafts **406** corruptible factors were identified, which, if enforced, would generate into or increase the threat of committing new acts of corruption or actions of corruption behaviour. As result, the experts developed recommendations to exclude them at

all or to diminish their effect. Unfortunately, during the year 2009 the authors of draft acts have accepted such recommendations only in **45%** of cases, a figure that varies comparative with previous years when it used to reach **80%**. For sure, such a decrease of efficiency was also determined by a long electoral period, which imposed non-adoption of already assessed drafts. However, the drafts' authors could take in consideration the corruptibility potential of normative structures and to try, by using the expert recommendations, to diminish the effects. It's worthwhile mentioning in this regard, as a good practice of accepting the recommendations, the case of the Ministry of Agriculture and Food Industry. Although the drafts of this authority contain a great number of corruptibility factors, the anticorruption recommendations are excepted in **73%** of cases. An opposite situation concerns the draft acts developed by the State Agency on Intellectual Property.

Deficiencies

The most alarming problem is still that of promoting draft legislative and normative acts in the Government and Parliament without undergoing through anticorruption assessment.

Law on legislative acts, as well as the *Law on normative acts of the Government and other central and local public authorities* set out the compulsoriness of Corruption proofing expertise for all draft legislative and normative acts. Actually, only the Government authorities are submitting their legislative drafts to C.C.C.E.C for the anticorruption expertise. And even in this case, as it was identified, a number of drafts adopted during the governmental meetings have been not submitted to C.C.E.C.C. for anticorruption expertise. Therefore, some adopted drafts may contain corruptibility factors or not comply with the national and international requirements in the area concerned.

Initiative of parliamentarians and Moldovan President are not submitted for anticorruption assessment, and are adopted by the legislative forum without such an assessment.

Another problem in this regard is the limited time provided by some authors to develop anticorruption assessment. The constraint to develop in haste the expertise reports directly influences their quality. Also, sometime the draft act is submitted to C.C.E.C.C. and simultaneously to the Government, or even afterwards, when it was already adopted.

A number of defects within the draft legislative and normative acts of the Government were identified by TI – Moldova, its experts repeatedly noting about insufficient contribution by Government and Parliament in implementing the international anticorruption instruments. In 2007-2009, this organisation has examined and issued opinions on 56 normative acts, its comments being published on www.transparency.md.

C.A.P.C. corruption proofing expertise

Parallel to C.C.C.E.C., corruption proofing expertise is carried out also by the non-governmental organization Centre for the Analysis and Prevention of Corruption (C.A.P.C.). The CAPC activity is independent and pursues external monitoring of public policies expressed in the texts of draft laws. CAPC conducts corruption proofing of legislative acts tabled to the Parliament and published on its website, available to any stakeholder for comments and suggestions, according to the provisions of the Concept Paper of Cooperation between the Parliament and civil society. CAPC draws up corruption proofing expertise reports also upon the express request of the interested public authorities. Corruption proofing conducted by the CAPC was supported financially by the *Eurasia Foundation* (March-October 2006), *MOLICO Project* (October 2006 – January 2009), as well as by the Civil Rights Defenders and the Swedish Agency for International Development and Cooperation (July 2009 – December 2009).

Developments

In the period of July 2006-November 2009, CAPC has drawn up **412** corruption proofing expertise reports of draft laws placed on the Parliament's website, as well as at the express request of public authorities (see table 3).

Table 3

Corruption proofing expertise reports on:	2006	2007	2008	10 months 2009	Total
- draft legislative acts taken over from the Parliament's website	161	118	105	11	395
- draft legislative and normative acts at the express request of public authorities	0	6	7	4	17
Total:	161	124	112	15	412

All the CAPC corruption proofing expert reports are placed on the CAPC website (www.capc.md/ro/expertise/avize).

The following categories of corruptibility elements frequently identified in draft laws: deficient norms of submittal and form filling, competing norms and legislative gaps, excessive or ambiguous discretionary powers of the public authorities and deficient linguistic wordings.

The efficiency of the corruption proofing reports, prepared by the CAPC experts, was assessed in terms of the extent to which the Parliament and Government accepted the 3,684 objections relating to the specific corruptibility elements, identified in the 258 drafts reviewed. 1,916 objections of 3,684 were accepted, which represents an efficiency coefficient of **52.01%** of the corruption proofing reports, presented by CAPC experts (Table 4).

Table 4

Categories of corruption elements	Spreading of the corruption elements in the drafts put under expertise by CAPC	Efficiency of identifying corruption elements in the drafts put under expertise by CAPC
I. Interaction of the draft with other legislative and regulatory acts	24.66%	47.56%
II. Manner of exercising public authority duties	32.59%	54.81%
III. Manner of exercising rights and obligations	7.46%	54.84%
IV. Transparency and access to information	5.24%	35.79%
V. Accountability and responsibility	6.99%	50.29%
VI. Control mechanisms	3.16%	34.52%
VII. Linguistic expression	17.47%	58.75%
VIII. Other elements of corruptibility	2.42%	34.85%
TOTAL		52.01%

In July 2009, C.A.P.C. launched its second Study on the effectiveness of the corruption proofing expertise mechanism, as part of the *MOLICO Project*¹⁴. It pursued the analysis of the effectiveness of the process of identifying the legal provisions which might favor corruption. Also, the Study assess the degree to which the Parliament has taken into account the remarks and recommendations of the C.A.P.C. in avoiding to include the corruption elements in the laws upon passing them.

Two factors were identified that influence the extent to which the CAPC experts' recommendations are accepted by the Legislative. The first one is observance by the Parliament of the terms of cooperation with the civil society. When these terms are not complied with, the efficiency of the CAPC expert reports accounts for 25.5%. The second factor is the quality of the authors that issued the draft laws. In case of the most common authors of the draft laws developed within the Government, such as the Ministry of Justice, the efficiency of the CAPC reports accounts for almost 60%, this authority often requesting the CAPC opinion before submitting the drafts to the Parliament

Deficiencies:

- The lowest efficiency of the CAPC expert reports was found in the drafts issued by the Intelligence and Security Service (**8.5%**), Ministry of Information Development (**17.6%**) and the General Prosecutor's Office (**18.2%**).
- The effectiveness of the CAPC corruption proofing expertise in case of the package of the anticorruption laws passed during 2007-2008 showed a

¹⁴ Study „Effectiveness of the corruption proofing expertise mechanism in case of legislative and normative acts in the RM in the period of 2006 to 2009”, carried out by the CAPC as part of the *MOLICO Project*, July 2009, www.capc.md/ro/events/16.html.

coefficient of only **38.4%**, as compared to the average of above **50%** effectiveness in case of other laws, against natural expectations that these laws meet the anticorruption requirements and standards.

- The implementation of **78%** draft laws reviewed by the CAPC experts implied financial and other kind of expenditures, which means that according to Law 780/2001, the financial and economic justification was compulsory. Only **6%** of these drafts were accompanied by such a justification.
- References to the compatibility of the draft acts with the *acquis communautaire* and international standards in the text of the explanatory notes and draft laws were made only in **21%** of cases, but these did not always implied a veritable adjustment of the national legislation to the community or the international one.
- **56%** of the drafts, through which interests/benefits are promoted, were qualified by experts as being against the public interest. **39%** of all draft acts were appreciated as generating impairments, against public interest. A clear trend of the deputies (**71%**) and of the President of the Republic of Moldova (**77%**) to submit draft acts promoting/impairing certain interests was noted, being increasingly more visible as compared to the drafts submitted by the Government (**46%**).

Conclusions

According to the C.A.P.C. experts, the corruption proofing of draft legal acts confirmed its viability, managing to convince the Parliament about the solidity of concerns expressed regarding to the corruptibility potential of regulations. Applying this new type of expert review during 3 years increased the transparency of the overall legislative process and proved an efficiency of **52.01%** of objections accepted by the Parliament.

The approval of the Concept Paper on the Cooperation between the Parliament and the civil society permitted to apply the draft legal acts corruption proofing mechanism. Implementation of corruption proofing by CAPC is an example of successful cooperation between the non-governmental sector and the State in the area of corruption prevention by improving legislation. At the same time, this exercise became a way of monitoring the legislative process by the civil society.

The interventions of CAPC experts allowed the formulation of some well-grounded objections and proposals on the reviewed drafts, a significant part of objections being considered by the Parliament and thus helping immediately the prevention and combating of corruption phenomenon spreading.

The CCECC expert review intervenes at the moment of finishing the drafts within the Government. At this stage, taking into account the objections submitted by the CCECC experts, the text of the drafts still may be changed by the authors before

submitting it to the Parliament. In such a situation, the CCECC expert review submitted to the Government when the draft is finished, before submitting it to the Parliament and the CAPC expert review applied to the draft legal acts registered in the Parliament act not as two separate filters, but rather as two levels of a single filter, aimed at removing the legislative corruptibility elements. The existence of these two levels allows both to remove the corruptibility factors and educate the authorities that receive each of these expert reviews, in order not to admit corruptibility risks in the text of developed and promoted legal acts.

2.2. Efficiency of institutional system. Risk assessment.

The expected effect of the institutional reform, launched in the country, rely on creating an efficient institutional system for preventing and combating corruption diminishing the corruption risks within public institutions.

Developments

In 2007-2009 a number of measures have been undertaken in order to strengthen the public administration, optimizing the decision-making process and establishing a structure of integral civil servants.

The reform of central public administration, implemented in the Republic of Moldova since 2006, has greatly contributed to institutional and functional reorganisation of the central secretariat of specialised central bodies and some subordinated institutions, to optimisation of decision-making process within the Government, establishing a new legal framework in civil service. The central specialized bodies implement the plans of institutional development for 2009-2011.

A certain progress in this field was achieved by adoption and enforcement of the Law on public position and status of civil servant. A number of normative acts were adopted to standardize the procedure of contest on holding the public positions, to carry out probation periods for debutants in public service, to develop template structures and methodologies on development, coordination and approval of the job descriptions. A number of other activities are going on, according to the *Action Plan for implementation of the Law on public position and the status of civil servant in 2009*, approved by the Governmental Decision no.133 of 10.02.2009.

In order to strengthen the integrity of public institutions, the sectorial codes of ethics are being developed, the public authorities receive the poster „Code of conduct of civil servant: obligations and guarantees” and booklet „New legislative framework regulating the activity of civil servant”, the professional training includes separate modules on ethics in civil service and conflict of interests. Public authorities have informed about implementation of new procedures for recruiting, selecting, hiring and promoting in public positions.

Deficiencies:

Insufficient knowledge standard of employees within public institutions concerning the notions of the conflict of interest issue, as well as the mechanism to trace and treat it. Insufficient the level of civil servants' familiarisation with the Criminal Code and Administrative Code regarding the forms of corruption, restrictions and incompatibilities in those involved in public service¹⁵.

TCP implementation

Concrete measures for strengthening institutional capacities in preventing and combating corruption were undertaken according to the *Action Programme for TCP implementation*. Healthcare, fiscal administration, custom administration, police forces, judiciary and C.C.E.C.C. were priority areas included in programme. Among the accomplished activities, it's worthwhile mentioning the following:

- in *judiciary* the normative framework was amended aiming at strengthening the institutional resistance to corruption, the general inspection was established within the Superior Council of Magistrates, the activity of the National Institute of Justice was organised and assured, the single informational complete system of judiciary was established, the software for judicial information system was created, 1127 computerised devices have been procured;
- in *healthcare* – strengthened normative framework, developed 80 clinical protocols, medical standards for diagnosis and treatment for any diseases; established within the National Health Management Centre the Section of external medical audit, completed technical-material basis by procurement of 84 copiers and 252 computers;
- in *fiscal system* – established Single Informational Centre for tax-payers' assistance and Internal Subdivision for preventing fiscal frauds, implemented integral informational system, strengthened internal normative framework, completed technical-material basis by procurement of 1817 computers with afferent equipment and software;
- in *customs* – accomplished institutional reorganisations, strengthened internal normative framework, established a Training Centre for custom officers, Inter-ministerial Commission on simplifying custom procedures, Independent team for monitoring the activities on preventing and combating corruption within the customs and State Company „Vamtehinform”;
- in *police forces* – established Information and Documentation Centre on anticorruption, ethics and deontology of police, strengthened internal normative framework, strengthened capacity of subdivisions directly involved

¹⁵ The survey “Measuring corruption from survey to survey”, Perceptions and experiences of households' representatives and businessmen regarding corruption in RM, p. 20, TI- Moldova, 2008

in preventing and fighting corruption (Division of internal security, Special Task Division, Division on fraud investigation);

- in C.C.E.C.C. – strengthened internal normative framework, approved new organisational structure, established Training Centre for employees, established C.C.E.C.C. Monitoring Civil Council¹⁶.

Deficiencies:

As for the TCP implementation, the deficiencies were particularly determined by lack of financial resources, decreased level of implementation of informational technologies, insufficient endowment with specialised equipment for subunits specialised in fighting corruption.

„Single window”

A prerequisite in diminishing corruption is limitation of the direct contact between the civil servant and service beneficiary by implementing a mechanism for providing public services electronically.

An advanced model of cooperation and communication between a state institution and civil society was implemented by the Licensing Chamber by launching the electronic informational system, developed by the Project on reforming the regulatory framework for entrepreneurial activities and fiscal administration in the Republic of Moldova (USAID/|BIZTAR). This includes three components: license registry, licensing guidelines and single window for licensing. Thereupon, economic companies have an online access through the site www.licentiere.gov.md to the *license registry* and can check the licenses of national companies. *Guidelines* include information on licensing requirements, validity, duties etc. Due to *single window*, implemented by the Licensing Chamber, the procedure for receiving the documents from license applicants was simplified. Currently, about 60% out of the total number of required documents for licensing are acquired through "single window".

Single window practice was implemented in technology of customs, and for its development the *Action Plan for implementing the „single window” principle at the border checkpoints for auto transportation* was developed and then approved by Moldovan Prime minister on 17.03.2008. According to the above-mentioned plan, the Custom Service took over **2 competences**: of the State Enterprise „Moldovan Agency for International Auto Traffic”, abolished by Governmental Decision no.153 from 14.02.2008, and the competences of collecting some payments for environment pollution, earlier fulfilled by environmental checkpoints.

In order to implement a system for keeping automatic evidence of international auto traffic and for calculation of road duties, established by legislation, the

¹⁶ TCP Implementation Report for 2007-2008, www.mca.gov.md.

Custom Service, with support of State Enterprise "Vamtehinform", developed the informational software „UNIPASS”, implemented within all custom checkpoints since April 2008. An up-dated version of „UNIPASS” programme is the new integrated informational system „Frontiera”, implemented since January 2009. Custom Service and S.E. “Vamtehinform” permanently work on developing the “Frontiera” system in view of assuring an automatic data exchange among various institutions (Ministry of Agriculture and Food Industry, Ministry of Environment, Transportation Agency, Border Guard Service) and implementation of the system for processing the documentation electronically. To inform the business community about the process of implementing the *single window* principle, a special column *ghişeu unic/single window* was introduced on the web-page of Custom Service www.customs.gov.md . The practice of *single window* system resulted in elimination of bureaucratic and administrative barriers in process of state registration, attracting a number of advantages, including reduction of hardcopy documents flow, registration costs and time-limits. Companies are registered in maximum 10 days, and at the companies’ demand the registration takes 24 hours. It is possible to get distance registration and to benefit from other service through Internet¹⁷.

The State Fiscal Service, jointly with the S.E. „Fiscservinform”, launched in July 2009 an *e-window* for tax-payers. Thus, by means of official web-page www.servicii.fisc.md , the tax-payer may benefit of online fiscal reporting services, services of access to tax-payer’s fiscal code, verification of information about VAT invoice holder, download forms, register and issue digital signatures, access to information on fiscal legislation and regulations.

Deficiencies:

„Single window” of the State Registration Chamber is imperfect. The impediment consists in the fact that a person willing to start and register a business, in order to conclude the registration procedure, shall visit the National Bureau of Statistics, the National House of Social Assurances and the National Company of Medical Assurance, which contravenes to „single window” mechanism.

Public procurement

A number of actions were undertaken to diminish corruption in area of public procurement. Aiming at fully implementing the objectives and mechanisms stipulated in the *Law on public procurement*, Government adopted 19 normative acts, published in Public Procurement Bulletin and on official website of the Agency. In May 2009 the *Automatic Informational System „Public Procurement State Registry”* was launched, which is characterised by existence of a single access point, designed for institutions that deal with public procurement of goods,

¹⁷ *The plan for eliminating business environment constrains, developed by the Ministry of Economy, October 2009, www.mec.gov.md.*

works and services, for entrepreneurs willing to get involved in procurement procedures and for wide public.

According to information presented by A.M.R.P.P.H.A., the number of open procurement procedures increased substantially. The volume of procurements accomplished as result of public auctions reached in 2006 and 2007 a volume of **70%** out of the total public procurements in the country, and in 2008 and 2009 – about **73%**. To compare with, the volume of procurements through public auctions in 2004 was **46%** and in 2005 – **57%** out of the total public procurements in the country.

Following the correctness of auctions, A.M.R.P.P.H.A. has returned for reconsideration and reassessment the bids of **27 auctions** in 2008 and **37 auctions** in first half of 2009. Within the contests carried out according to price demand & offer mechanism, the Agency issued and submitted to contractual authorities in 2008 – **110** warning letters and in first semester of 2009 – **78** warning letters concerning the committed infringements, and in framework of contracting goods, works and services from a single source, **187** contracts were rejected in 2008 and **156** contracts in first half of 2009, due to the non-compliance to the provisions of normative acts in the field.

Deficiencies:

Public procurement is still a very corrupt sector. According to surveys of TI - Moldova, comparative with 2005 now the country has an increased number of entrepreneurs who mentioned as important reasons for not attending the public procurement the impossibility to win in auctions without unofficial payments, non-transparency of public procurements and high costs of procedures¹⁸.

Notifying about corruption cases

A beneficial effect for preventing corruption in public institutions, notifying about various situations of the conflict of interests and ignoble behaviour of civil servants, is provided by „hotlines”, established within all ministries and other central administrative bodies, particularly: in General Prosecution Office, Anticorruption Prosecution, Supreme Council of Magistrates, Court of Accounts, within institutions of high education.

Anticorruption „hotlines” of public authorities

Most efficient of all „hotlines” was considered that of C.C.E.C.C. and, among all public institutions, only C.C.E.C.C. had campaigns promoting the anticorruption

¹⁸ Survey “Measuring corruption from survey to survey”, p. 72, TI- Moldova, 2008

„hotlines”¹⁹. Statistical data, presented in table 5, show increased number of calls received by C.C.E.C.C., which speaks in favour of increased trust of the public in this institution. However, in most of the case (about 80%), citizens call to receive consultations in various issues or these calls don't refer to C.C.E.C.C. competences.

Table 5

Statistics of „hotlines” calls to C.C.E.C.C.

	2007	2008	10 months 2009
Registered call, including:	346	724	813
- calls that resulted in reports for examination	45	164	168
- calls referring to other institutions' competence	199	312	365
- consultative calls	102	248	280

Deficiencies:

Services of anticorruption „hotlines” of ministries and other central public authorities prove formalism and require a better quality. Often, no one is answering at these anticorruption „hotlines”, and the answers provided aren't satisfactory or they refuse to cooperate with the source under conditions of anonymity. These are conclusions drawn by surveys „*Citizens' calls at anticorruption „hotline”: civic responsibility or courage*”, accomplished by C.A.P.C. in 2008 within the Project „*Educating media and awareness raising of the population against corruption – 2nd state*”, financially supported by British Embassy in Chişinău, and „*Monitoring the „hotlines” of public institutions*”, accomplished by Transparency International at the beginning of 2009 (in case of the Republic of Moldova, 7 public institutions were monitored). Inefficiency of anticorruption „hotlines” within public institutions is also reflected in investigation articles published in 2008 by the Association of Independent Press and newspaper “Ziarul de Gardă”.

Anticorruption „hotlines” of civil society

An alternative for citizens are the anticorruption “hotlines” launched by TI - Moldova within ALAC Project, financially supported by German Foreign Affairs Ministry and Stability Pact for South-Eastern Europe, as well as by C.A.P.C. in framework of the Project “*Awareness raising within population regarding the phenomenon of corruption*”, financially supported by British Embassy in Chişinău.

¹⁹ Investigation articles on hotlines' efficiency: Association of Independent Press (www.api.md/articles/4312/index.html) and “Ziarul de Gardă” (www.zdg.md/exclusiv/coruptia-fierbinte-si-telefonul-rece).

During three years of activity, the “hotlines launched by TI – Moldova provided consultations to over 4000 persons, and in case of about 1000 petitioners the notifications were written to appropriate authorities with further settlement of the case. The hearings for population were organised in regions and about 500 persons got consultations during these events²⁰.

Since June 2007 to November 2009 the C.A.P.C. „hotline”, financially supported by British Embassy in Chişinău, was used over 5000 times by approximately 3000 unique petitioners. Out of these, just around one fifth have informed about real cases of corruption (22.3%), the rest erroneously considered they report about such violations, confusing corruption with other social phenomena. Two thirds of corruption cases notified to C.A.P.C. were taken for supervision by „hotline” operators, and in this regard the law enforcement bodies and competent public authorities were addressed with written petitions. Most frequent violations of corruption, notified by means of „hotline” referred to the public sector – 90% (education - 30%, police - 20%, local public authorities - 13% and healthcare - 12%), and complaints referring to corruption in private sector – 10%. The activity of C.A.P.C. „hotline” has shown that population doesn’t know and doesn’t understand what is corruption, it is afraid to inform about alleged cases of corruption and, in general, to communicate directly with public authorities.

Deficiencies:

- „Hotlines” of civil society represent an alternative to those of public authorities. If the governmental „hotlines” are being used by 100-300 persons per year, then the „hotlines” of non-governmental organisations are used by over 1000 persons per year. This is due to lack of trust of the population in authorities, due to superficial attitude of most of state bodies towards the activities of these lines, as well as due to their weak publicity.
- Most of persons – up to 80% - who call to anticorruption „hotlines” don’t report cases of corruption, but rather some other social problems that are confused with this phenomenon, which show the stringent need to identify awareness raising campaigns among population concerning the essence of corruption and fostering intolerance to it.
- C.A.P.C. surveys show that the highest probability of correct understanding of the phenomenon of corruption is shown by young people up to 25 years old, school-pupils and students or by employees within public sector up to 40 years old, who are less willing to notify about an act of corruption. Thus, the correct perception of corruption phenomenon is indirectly proportional to age and directly proportional with the unwillingness to inform about an act of corruption. The young generation shows a better understanding of corruption,

²⁰ Informative bulletin TI Moldova, August 2009, www.transparency.md

but the lack of interest deprive them of civic activism and responsibility, which is necessary for communicating about such acts²¹.

Notification and monitoring cases of corruption within public authorities

In order to actively involve citizens in notifying and reporting about cases of corruption, a *Regulation* was developed *concerning the mechanism of notifying and monitoring the level of corruption within public authorities*, approved by Governmental Decision no.1461 of 19.12.2008.

In framework of discussions on the institution that shall apply in premiere this mechanism, C.C.E.C.C. had the initiative to accomplish a pilot-project within its own institution, showing probity, transparency and openness towards applicability of anticorruption initiative among its own workers.

To enforce the above-mentioned Regulation, in 2009 C.C.E.C.C. has undertaken the following activities: selected by competition the monitoring institution – Centre for Investigations and Consultancy, placed boxes for collecting „yellow cards”, launched the publicity campaign under message „*Do you know a corruption case in C.C.E.C.C.? Use the Yellow Card*”. The first report on external notification (questioning citizens) and internal one (questioning C.C.C.E.C. employees) about cases of corruption was developed for the first semester of 2009 and published on website www.cceec.md.

Risk assessment

An efficient method to identify the organisational factor favouring corruption is the assessment of institutional corruption risks.

The risk assessment processes were implemented in the country with support of *MOLICO Project*. In this regard the initiative in approving the risk assessment methodology and assuring its implementation on national level was taken by SCM, and this activity was accomplished in November 2007–October 2008 in 51 courts and NIJ. Experts of *MOLICO Projects* provided consultancy during **5 training sessions**, involving **5** working groups (**85** court chairman and deputy chairmen and **11** high-ranking NIJ representatives). The final report on identifying the necessary steps for implementing the integrity plans in judiciary, developed by Council of Europe experts, has been debated during the Conference „Strengthening the integrity of judiciary in Moldova by corruption risk assessment and implementation of integrity plans” held in July 2009.

²¹ “Citizens’ calls to anticorruption hotline: civic responsibility or courage?”, March 2008, CCAP (www.ccap.md/ro/publications/)

In order to assess the corruption vulnerability degree in case of employees within the prosecution bodies, on 03.04.08 the Prosecutor General issued an order to set up a working group, which accomplished self-assessment of corruption risks.

The self-assessment of corruption risks within central specialised bodies of public administration is stipulated by Art.7 par.(4) of the *Law no.90-XVI from 25.04.2008 „On preventing and combating corruption”*. *Methodology for corruption risk assessment in public institutions* was approved by Governmental Decision no.906 of 28.07.2008, according to which, the central specialised bodies, during 2008 and 2009, will self-assess the corruption risks and will draft the integrity plans, and C.C.E.C.C. will provide consultative support, including trainings for authorities.

In order to fulfil the set out tasks, all specialised bodies of central public administration have established working groups, the members of which were trained by C.C.E.C.C. trainers during **19 meetings**, divided in **5 cycles** on various issues. The consultative support was provided with the consent of *MOLICO* experts, and the beneficiaries were provided with „Course materials on enhancing the integrity of public service by self-assessment of corruption risks”, templates of Reports on corruption risk assessment and Questionnaire for self-assessment of organisational integrity within specialised central bodies, software BizAgi Process Modeller etc. C.C.E.C.C. trainers have established on this institution’s site a special link entitled „Corruption risk assessment” with information being published concerning the normative framework, corruption risk assessment – roles and responsibilities, calendar of activities, corruption risk assessment within C.C.E.C.C., photo gallery.

The activity of risk assessment groups was evaluated by visits on the spot (Land Relations and Cadastre Agency, Material Reserves Agency, Ministry of Culture, Healthcare Ministry and Border Guards Service) and filling in questionnaires. The analysis shows a short time provided for accomplishing this activity, so that public authorities are on the middle way in implementing the methodology.

On 10 March 2009, the Court of Accounts, following the Governmental Decision no.906 of 28.07.2008, has developed and approved the Methodology for corruption risk self-assessment within the Court of Accounts. With the reference to the stage of implementing the Methodology, the phase of assessing the prerequisites of corruption risks is ongoing, including the assessment of legal framework and organisational structure of the Court of Accounts, the questionnaire filled in by Court’s employees are being processed. Additionally, at the Court’s request, TI – Moldova accomplished a survey on supervising the utilisation of public resources, execution of Court of Accounts’ decisions and Court auditors’ integrity. The survey’ results revealed certain deficiencies and risks, which shall be assessed within further stages, as well as certain achievements as far as the Court’s auditors are concerned.

Deficiencies:

Deficiencies in implementing the corruption risk assessment are related to the short time provided to public authorities, the reduced number of trained trainers in this respect, the „nihilist” and superficial attitude of some working groups established within central public authorities.

Income declaration and control

One of the key-components of the mechanism for preventing corruption within the public system is *the declaration and control of income and property* of high officials, judges, public prosecutors and civil servants. Although this instrument for fighting against corruption was legally settled in 2002, currently the declaration of income and property by persons holding public positions faces a big number of deficiencies. It is a conclusion confirmed by international organizations²², by a number of surveys accomplished in this field²³, by the attention media outlets pay to this issue²⁴, finally, the state institutions recognized this as a superficially tackled problem²⁵.

It should be noted that, at the Second Evaluation Round, the Evaluation Report on Moldova¹ was based upon the declaration of income and property of high officials, judges, public prosecutors, civil servants and decision makers, which was one of the topics studied by GRECO experts. Thus, one of the recommendations provided within this evaluation round referred to „*the implementation of an efficient control system over the declarations of property and interests for public agents*” (*recommendation ix*). According to the Concordance Report on Moldova, approved on 05.12.2008 by GRECO, the experts pointed to important achievements concerning the *recommendation ix*, but GRECO may not conclude that controlling device is sufficient now.

The assessments on the impact of holding public functions over public officials and civil servants’ assets and goods made by public opinion were based on the same transparency principle in declaration of income and property. „What are Moldovan officials hiding when refusing to make public their declarations on property?” was the question raised Journalist Investigation Centre in cooperation with “Acces-info” Centre within the transparency test of the central and local public institutions in the country as regards “the declaration of income of the institutions’ leadership”. The results²⁶ of the control over the effectiveness of the

²² *Second Evaluation Round. Evaluation Report on Moldova, adopted by the Group of States against Corruption (GRECO), in Strasbourg, at its 30th plenary meeting, 13 October 2006.*

²³ *Survey on „Property and income declaration of officials, judges, public prosecutors, civil servants and decision-makers: problems and settlement prospects for Moldova”, carried out by CCAP with the support of the Eurasia Foundation Representative in Moldova within the Anti-corruption Alliance, March 2009.*

²⁴ *„Property at sight” Campaign, mediated by the Independent Press Association, www.api.md.*

²⁵ *Action Plan to implement the National Strategy for Preventing and Combating Corruption, approved by parliamentary decision no.309-XVI of 27 December 2007.*

²⁶ *Surveys accomplished by the Journalist Investigation Centre jointly with the „Acces-info” Centre, www.investigatii.md.*

mechanism of income declaration in 2005, 2006 and 2007, made public in July 2008, revealed multiple lacunas, including disregard by public institutions of the request for access to information. Out of those 1325 requests for information addressed to the central and local institutions, less than a quarter of institutions have answered - 276 and only 46 of them made public the income received by the institution leadership during the last three years. From the national bodies – the Parliament, the President’s Office, ministries, agencies, departments, etc. – 57 in total, only 8 presented the volume of income received by their leadership. Out of the total number of 895 mayoralities, which received the request for information, only 56 of them answered and 29 out of them submitted the requested information, the mayors have been the only officials who, besides the information on salary income, also attached the copies of their declarations of income.

In January 2009, the Independent Press Association (IPA) and the Anti-corruption Alliance launched the „Property at sight” campaign, proposing officials to publish the declarations of income and property for 2008 according to the legal provisions. Mediating widely the development of this campaign, the anti-corruption supplement *OBIECTIV*²⁷ reflected the most frequent and important problems of the mechanism for declaration of income: a) the transparency and control over the veracity of the information on officials’ property continue to be mimed; b) the information dosage, legal and normative ambiguities diminish substantially citizens’ confidence in an efficient and responsible governance, able to honour its own promises and provisions of the multiple plans and strategies; and c) those mentioned generate negative social effects, damage country’s image internationally, raising doubts about sincerity of international commitments undertaken by Moldova.

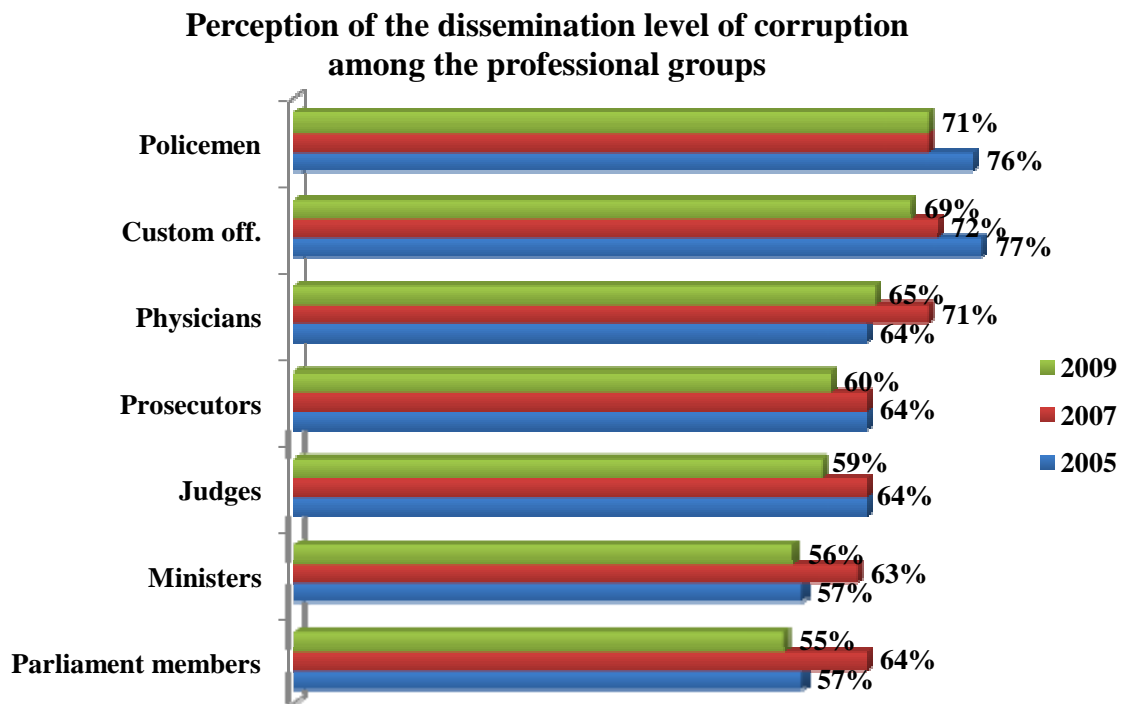
Conclusions

Although a number of measures have been undertaken to modernize public administration, to optimize decision-making process and enhance institutional capacities to prevent and combat corruption, public opinion perception does not attest a positive result concerning these issues.

According to the Research Report „Evolution of the Perception regarding Corruption Phenomenon in the Republic of Moldova”, accomplished within *MOLICO Project*, the policemen, custom officers, physicians, public prosecutors and judges, ministers and MPs are those professional groups for whom the incidence of perception on corruption dissemination remains high for the last years (see the diagram, the percentage represents the proportion of the answers of

²⁷ *Anti-corruption supplement OBIECTIV is published by the Independent Press Association (IPA) of the Republic of Moldova in partnership with Anti-Corruption Alliance, www.api.md*

„all/nearly all are involved” to the question: In your opinion, how much the corruption is spread among the following groups?)²⁸.



Practically the same professional groups are pointed out as being the most corrupted in the survey „Perceptions and experiences of the representatives of households and businessmen regarding the corruption in the Republic of Moldova”, carried out by TI - Moldova in 2008²⁹.

The chart of the causes perceived as generating corruption denotes small salaries of the civil servants, lack of a strict administrative control and that corrupted persons are not held liable.

2.3. Analytical activity

The activities to investigate the corruption phenomenon belong to the solutions to stop and prevent the illegal actions, organized in parallel with current regulations and legislations. The interferences of the state in various social-economic policies are based on the results of the accomplished researches and evaluations. If

²⁸ Research Report „Evolution of the perception of the corruption phenomenon in the Republic of Moldova”, accomplished within the MOLICO project by the Institute of Marketing and Polls IMAS-INC Chisinau. Maximum sampling error is +/- 1.8 %.

²⁹ Research “Measuring corruption from survey to survey, perceptions and experiences of the representatives of households and businessmen regarding the corruption in the Republic of Moldova”, conducted by TI - Moldova in 2008 within the „Strengthening the Monitoring Capacities of the Civil Society in Moldova” Programme with the support of the Educational Development Academy.

decreasing some antisocial phenomena, such as corruption, a large number of anti-corruption measures should be undertaken on sectorial level that generate the need to study and analyze corruptive behaviours in different social fields. Knowing the causes and conditions that generate corruption actions in different fields allows preventing and ceasing the dissemination of corruption practices.

Developments

Accumulation of positive experience in the field, year by year, led to the increase in the quality of analytical studies, and the stage of general researches of corruption phenomenon belong now to the past. Increase in the quality of the analytical studies was conditioned, to a large extent, by setting-up an efficient mechanism to acquire and process information. The official information sources and the instruments to analyze data have been filled in to make efficient the analytical activity. Also a cooperation network was developed with governmental and non-governmental organizations, as well as with international ones in view of providing the necessary support.

In 2007, the analytical activities developed by C.C.E.C.C. have been aimed at the following 13 aspects: evolution and tendencies of the corruption as phenomenon, the corruption within the educational system, analysis of public procurement in medicine, the process of accreditation and assessment of medical institutions, the institutional framework of the working group in public procurement, declaration of property by high officials and civil servants, fraud schemes through fiduciary companies, illegal practices within the process of natural deposits mining, reparation and reconstruction of public roads, some aspects of frauds on the land market, victims of corruption, pyramidal sales, national and international opinion polls on the corruption phenomenon in the Republic of Moldova.

The analytical studies in 2008 favoured the elucidation of the corruption forms manifested in various fields, identification of the conditions for generating and developing the corruption phenomenon, focusing on the decreasing the factors that are damaging for the system. C.C.E.C.C. developed 23 studies and analytical notes during the year, out of them 15 have been submitted to competent authorities, including the leadership of the country, Government and National Bank of Moldova, and 8 of them have been submitted to C.C.E.C.C. operative subdivisions in order to undertake necessary steps in this regard.

In 2008, the analytical investigations covered many social-economic fields, being directed to such aspects as the mineral deposits extraction sector; frauds committed on the advertising market; corruptible risks on the territory of Chisinau International Airport; corruption phenomenon in penitentiary institutions; corruption phenomenon within the educational system, with the elucidation of risks within a higher educational institution; corruption phenomenon among lawyers; getting bank credits by individuals through swindle; import/export

activities; corruption phenomenon in hostels; corruption phenomenon in the field of population documentation services; food safety assurance in the country; import-export of poultry meat in January-July 2008, etc.

The main objectives of the analytical activity developed in 2009 were as follows: improvement and development of analytical abilities; increase in analytical studies' quality; enhancing cooperation with national and international institutions.

Also, strategic researches continued in 2009 for the priority fields where corruption is still highly ranked: medicine, public procurement and education.

Thus, in view of decreasing corruption phenomenon in the medicine, a number of analytical studies have been carried out, precisely: analytical study on public procurement in medicine, which resulted in a number of amendments to the public procurement activity performed by the Medicine Agency.

Based on the results of the analytical study „Frauds on IT market”, which represents an ample analysis of the way in which the informational technologies services and products are provided on the market, the illegal actions committed by the entrepreneurs, the operative subdivisions of the C.C.E.C.C. found, following the investigations conducted, the merchandise without acts of origin that amounts to 6 mln. MDL.

Another issue studied by C.C.E.C.C. analytical subdivision in 2009 refers to the market of precious and semiprecious materials in the Republic of Moldova. This study is aimed at preventing the emergence of some new procedures to perform illicit operations with gold and other precious and semiprecious metals on the market, especially the activity developed by pawnshops. The study' results proved the existence of some lacunas in the legislation, which regulates this field, that allow avoiding tax payment. Thus, the estimate damage caused to the state budget amounts to 136.6 mln. MDL for gold only in 2007-2008 and to 15.6 mln. MDL in the first semester of 2009. Necessary recommendations have been made to prevent illegal activities and assure an efficient legal framework for a functioning entrepreneurial activity and to encourage the development of legal activities with precious and semiprecious metals.

Following the enhancement of the cooperation with local and international institutions a number of sociological studies were conducted on „Perception of the corruption phenomenon in the Republic of Moldova”. Thus, in cooperation with the non-governmental organization „CRRAS”, selected by means of a public competition and with the support of the US Justice Department, three thorough sociological surveys have been developed in the education, medicine and business environment fields in order to assess the perception of the corruption phenomenon. Also, based on these studies the concept „Methodology of measuring perception of the corruption phenomenon within the social systems in the Republic of Moldova” was developed in framework of TCP.

Also, during this year the analytical activities covered a large spectrum of topics, including: corruption and traffic in human beings, assessment of sentences on corruption and related cases, analysis of corruption phenomenon within the Customs Service system, economic and financial analysis of the residents in free trade zones, analysis of the sector of production, processing, meat and meat canning.

The objectives achieved by the non-governmental organizations are the study of the level of corruption penetration within the society and state, as well as identification of areas most affected by corruption.

In this regard, TI - Moldova carried out a number of researches in this field, including:

- Transparency of public procurement in Chisinau, 2007;
- Preventing corruption by regulating the funding of political parties and electoral campaigns, 2007;
- Express poll of the beneficiaries of the services rendered by the Information Development Ministry and its subdivisions, 2007 ;
- Customs Service and Border Guard Service: exploration of perceptions and experiences, 2007;
- Dealing with conflict of interests within public service: regulations and perceptions, 2008;
- Integrity within the educational system, 2008;
- Mini-poll on the quality of fiscal services provided in Chisinau, 2008;
- Perceptions and experiences of the representatives of households and businessmen concerning the corruption in the Republic of Moldova, 2008 and 2009;
- Study on execution of the Audit Court decisions and the integrity of its auditors, 2009;
- Efficiency of the hotlines within the public institutions, 2009;
- Corruption within the energy sector, 2009. The surveys are available on the following site: www.transparency.md.

Another organization dealing with the investigation of the corruption phenomenon is C.A.P.C. Its most recent works are the following:

- *Study on the effectiveness of the mechanism for performing corruptibility expertise of the draft legal acts, October 2007.*
- *Study on judges' immunity from being held criminally and administratively liable, March 2008*, that included also a synthesis of the results of the opinion poll developed on focus-groups concerning the opportunity to modify current guarantees of judges' inviolability.
- *Study on „Declaration of property and income of high officials, judges, public prosecutors, civil servants and decision makers: problems and solving prospects for the Republic of Moldova”, March 2009.* The study makes a description of the current situation in the Republic of Moldova,

providing an analysis of the legislation and its deficiencies, considers the problems that emerge during practical implementation of the declaration model and the transparency of declarations, as well as the administrative capacities for exerting control over the declarations on income and property. Also, it considers the assessments made by international organizations concerning the civil servants' declaration of income and property issue, it states international standards in this field and provides alternative models for the Republic of Moldova.

- *Study on „the effectiveness of the mechanism for performing corruptibility expertise of the draft legal acts and other normative acts in the Republic of Moldova between 2006 and 2009”, July 2009.* This study shows the generalized situation for three years of performing expertise on corruptibility by civil society.

The studies are available on the following web site: www.capc.md.

„Acces-info” Centre, with „Soros-Moldova” Foundation support, published three publications in 2009, as follows:

- Citizen's Guide „An active person is a well-informed person”;
- Civil Servant's Guide „Actively informing the public”;
- Guidelines for all „Access to information: step by step”.

The guides are available on the web site: www.acces-info.md.

Within the Project „Moldova-EU Relations – Improving Public Information and Debate on the Key Developments”, implemented by the Association for Participative Democracy ADEPT and financed by „Soros-Moldova” Foundation, the publication „*Efficiency of anti-corruption policies and actions in the framework of the EU-Moldova Action Plan*” was launched in 2009. The study provides an assessment of *de facto* situation in the field on fighting corruption till concluding the EU-Moldova Action Plan and during its implementation, it ascertains the results and the deficiencies in implementing the anti-corruption objective of the Action Plan, and analyses the systemic problems that shatter the respect for international commitments undertaken by Moldova.

The collection of studies "*Government Priorities 2009*" was published within the Project "Strengthening the cooperation between political parties, electoral bodies and voters", implemented by the Association for Participative Democracy ADEPT and supported financially by the United Nations Democracy Fund (UNDEF), which includes 12 studies on different topics in the economic, social, justice and human rights fields, developed by 14 independent experts. The published studies include a retrospective analysis of the development in these fields in 2001–2008, followed by the identification of the existent problems, propose recommendations for overcoming them and increasing the efficiency of this policy. The above-mentioned studies may be found on the web site: www.adept.md.

IDIS „Viitorul” published a number of publications, including:

- Guidelines on ethic Initiatives on local level (2008);
- Implementation of laws in the Republic of Moldova – current problems (2008);
- Assessment of the funding of political parties and electoral campaigns in Moldova (2009);
- Consultancy and dialogue mechanisms between Government and local public administration (2009).

Deficiencies

Improving and enhancing the analytical skills is a long-run process that needs considerable resources, such as qualified staff, analytical software and trainings, and these are the opportunities that can not be, practically, provided so far at maximum extent on national level.

Conclusions

The analytical method applied in fighting corruption is under development in the Republic of Moldova, most of analytical techniques and instruments existing on international stage being not strengthened. At the same time, gathering positive experiences year by year resulted in enhanced quality of analytical researches, and the stage of general researches on corruption phenomenon is already over. The increase of the quality of analytical studies was conditioned, to a great extent, by setting-up an efficient mechanism for acquiring and processing the information.

2.4. Anticorruption Education. Civil Partnership

The level to which society accepts corruption still represents a factor that favours this phenomenon. Therefore, informing citizens about the danger of corruption and encouraging them to contribute to the diminishment of this scourge represents a priority task in the list of National Anticorruption Strategy objectives.

Developments

Compared to 2007, the period of 2008-2009 was marked by consolidated joint actions of public authorities and civil society in conducting the public education campaign in the spirit of intolerance to corruption. The Anticorruption Alliance had an important role in this undertaking.

A nation-wide anticorruption information campaign entitled “You Can Stop Corruption!” was held from April 2008 to February 2009 within the Threshold Country Plan (TCP). This involved a large number of public authorities and civil society institutions in an effort to offer citizens a wide range of informational tools and materials meant to facilitate the fight against corruption. The activities carried out included, among others: - posting of over 150 notice boards within a number of public institutions (ministries, courts, police stations, tax offices, hospitals and

universities throughout the country); - developing over 60 thousands subject-specific newsletters covering fields like health, tax, customs, police, as well as 200 thousand leaflets; - organizing 3 regional roundtables for information and motivation, with the participation of public employees, representatives of civil society and the media; - broadcasting of 3 video spots for informing and raising awareness of citizens, on the most important radio and TV channels. Informational materials containing the anticorruption hotline numbers were distributed within street actions held in all Moldovan districts and in Chisinau municipality; - organizing a contest for the selection of the most active promoters of anticorruption practices throughout the country.

In July 2008 CAPC started the project “Anti-Corruption Awareness Raising through Radio Shows”, with financial support from the Helsinki Committee for Human Rights of Sweden. This aimed at nurturing intolerance of public to corruption by involving the media and public officers in raising population’s awareness about human rights and providing free legal assistance to victims/witnesses of corruption. The project lasted till December 2008 and included a series of 23 shows entitled « Corruption-Free Zone », which were broadcast on « Radio Noroc » station. CCECC was an active partner in implementing this project.

In 2009 CAPC carried on the public awareness campaign starting a new series of 50 shows called “Together against Corruption”, with financial support from the British Embassy to Chisinau, within the project “Education through Media and Raising Population’s Awareness against Corruption – stage II”. The shows were developed at “Plai” and “Vocea Basarabiei” radio stations and experts from CCECC, the Anticorruption Prosecutor’s Office and representatives of public authorities took active part in them.

Six seminars for journalists were held within the same project called “Legal Dimension of Journalistic Investigations of Corruption Cases”, in which 134 journalists took part, being trained by representatives of the law enforcement bodies, of CCECC, the Anticorruption Prosecutor’s Office, General Prosecutor’s Office, Ministry of Interior and experienced investigative journalists.

A series of outstanding activities were carried out by TI - Moldova, among which:

- 198 seminars and roundtables on anticorruption organized, with the participation of 8400 attendees – representatives of central and local public authorities, the civil society and businesspersons;
- trainers trained in regions and seminars held in rural areas, including 3 TOTs held for trainers in rural areas, covering the following topics: “The National and International Legal Framework for Prevention and Combating of Corruption”, “Covering the Conflict of Interests in Public Institutions”, “The Petition System as a Way to Prevent Corruption”. The selected people

carried out 302 seminars in localities for representatives of the civil society, local public administration, businesspersons and the media. A total of 8420 people attended the seminar;

- 3 anticorruption campaigns for youth organized through “Kiss-FM” radio station; about 350 participants, winners of daily contests;
- a concert entitled «NO to Corruption» organized in May 2008 in partnership with “Kiss-FM” radio station, with the active participation of CCECC;
- 7 cartoon exhibitions “Painters against Corruption” organized at “Constantin Brincusi” exhibition centre, State Philharmonic Hall, Chisinau Public Park “Stefan cel Mare”, “Satiricus” Theatre, secondary schools, high schools and other public institutions.
- Anticorruption Days organized in youth summer camps: 2 events with the participation of about 250 people;
- 2 educational movies – “The politics of the Conflict of Interest: How to Prevent Corruption?” (2007) and “Transparency vs Political Corruption” (2008) - made and broadcast;
- 36 issues of the TI-Moldova newsletter disseminated with a print run of 2000 copies each, as well as 38 video and audio anticorruption advertisements;
- promotional anticorruption publications and materials developed and distributed: 16400 books, 6500 booklets, 3000 agendas, 108000 pocket calendars, 700 T-Shirts with anticorruption cartoons.

In 2008 experts of *MOLICO Project* in cooperation with CCECC and the Saatchi & Saatchi PR company started the development of a campaign to raise public awareness at a national level in Moldova. The General Communication Strategy for the campaign set 2 main objectives: education of population and strengthening public participation in the effort to fight corruption and raising awareness and trust in the three institutions dealing with the counteraction of corruption. Campaign content: media items (video clips and audio spots), publications (booklets, posters, advertising boards in the municipalities of Chisinau and Balti and the town of Cahul); Anticorruption caravan held in the biggest towns of Moldova. The scenarios for the 3 videoclips, the logo and message of the campaign were approved by the beneficiaries in December 2008 but the campaign was not accepted by the donors in the end.

A series of activities designed to support the anticorruption policies promoted throughout the country have been conducted by the public authorities. In this connection, the most important role stays with CCECC – the institution responsible for corruption prevention and combating.

In the reporting period the CCECC stood out by organizing various anticorruption meetings, including at a local level, involving pupils and students in anticorruption education events, taking part in TV and radio shows.

CCECC organized 210 meetings with representatives of various social and professional categories, with a view to raise awareness of the public opinion about corruption, including 90 - in 2007, 70 – in 2008 and 60 – within 11 months of 2009, the number of attendants being about 3600, 3000 and respectively - 2900 people.

The meetings were organized for public administration officers of the line central bodies, as well as for employees of the institutions subordinated to them, the local public officers, employees of educational institutions, healthcare institutions, some enterprises, pupils and students, professional auditors and accountants of the private sector.

The audience got acquainted with the concept and core of corruption as a social and criminological phenomenon; the national and international legal and institutional framework of prevention and combating of corruption; the legal and criminal qualification of the corruption crimes; the administrative tools to prevent corruption: management of the conflict of interests, promotion of ethical standards, etc.

Within the 3 years both the topics of the trainings conducted and the audiences have apparently diversified. The timeframe for anticorruption awareness raising classes has been expanded - some training courses being of 6, 8, 20 and respectively 40 hours.

With a view to expanding prevention activities at a local level, CCECC organized a *TOT within the district councils*, under the *MOLICO* Project, which was organized in partnership with the Academy for Public Administration subordinated to the President of the Republic of Moldova and included 3 training sessions conducted in September and October 2008 and in March 2009. Twelve out of the 32 participants were selected and designed as anticorruption trainers by a certificate. The trainers drafted anticorruption action plans, which will be implemented at a local level.

In November 2008 CCECC organized and conducted a *Training in monitoring effective implementation of anticorruption policies in the private sector*, in cooperation with the Anticorruption Prosecutor's Office, for trainers from the civil society, in which 19 representatives of the economic entities, professional associations and trade unions the country took part. The session covered 3 topics: legal and criminal qualification of the corruption acts; national and international mechanism for preventing and combating corruption; ethical norms in the public service, etc. The participants appreciated the knowledge they got within the seminar as excellent and useful.

An unprecedented event in 2008 was the establishment by CCECC in cooperation with the Ministry of Education and Youth of the summer school "Youth against Corruption" – an activity organized within *MOLICO Project*. The objectives set by the organizers were fully met: knowledge and practical experience were gained in

terms of correct legal qualification of corruption acts and related acts; the way of informing legal enforcement bodies; enhanced knowledge of youth in the field of prevention and combating of corruption, etc. Cooperation with the students who took part in the Summer school continued through their participation in various events: radio and TV programs, seminars, roundtables, anticorruption schools for high school students, etc.

Anticorruption schools for high school students, organized for the first time by CCECC were held in November 2008 for 24 students of the 12th form from Hincesti town high schools and in the spring of 2009 – for 87 students of the 12th form from Anenii Noi district. The events were organized in cooperation with the public authorities of these localities.

The organizers of the anticorruption school aimed to get high school students acquainted with the phenomenon of corruption and its effects on the society; provide education in the spirit of intolerance to corruption and increase the level of legal culture among Moldovan high school students. The presentations made during the sessions ignited a particular interest in students who asked questions, proposed suggestions, and expressed their opinions. All school participants mentioned that the training was interactive and appreciated the knowledge they got as excellent and useful.

Deficiencies

- The results of the assessment of access to information carried out by the media representatives and NGOs in the area of freedom of expression and access to information during 2008, under the aegis of «Acces-info» Centre, shows inefficiency of occasional activities designed to raise public awareness and educate the public, carried out by governmental and nongovernmental institutions with a view to enhance knowledge of human rights and eliminate legal illiteracy, which often engenders passivity and indifference of citizens³⁰.
- Shortage of funds provided to CCECC, which has limited the conduct of measures designed to raise public awareness against corruption, particularly in the North and South of the country.
- Inactive participation of the public, civil society and business environment.
- Inactive participation of higher level local public authorities in regional actions.
- The donor changing its mind with regard to the promotion of campaign within *MOLICO Project*, meant to raise Moldovan public opinion.

Conclusions

Wide campaigns were held within the reporting period for raising awareness and creating a public opinion against corruption, by promoting a culture of law and

³⁰ The Yearly Report on the Assessment of Access to Official Information in Moldova was developed within the Program Strengthening Civil Society Monitoring Capacity in Moldova, funded by the US Government through Millenium Challenge Corporation, www.aliana.md.

anticorruption standards. Their effectiveness involves an active cooperation among governmental institutions, civil society and the business environment. At the same time, there is an active participation of the public, civil society and the business environment in these activities.

2.5. Transparency and the Media

Building a society based on democratic values involves measures to ensure transparency of public service, open and unconditional cooperation with the society. Effectiveness of informing population, citizen's control over the public institutions' activity, stimulation of correct opinion forming and active participation of population in democratic decision making are the main objectives of the *Law on Access to Information*. In 2008 the *Law on Transparency in the Decision-Making Process* was adopted with a view to setting new principles and ways of ensuring transparency in the decision-making process of public authorities, establishing a viable mechanism of involving citizens in the development and adoption of decisions

Developments

Public authorities have undertaken specific measures to promote and enhance access to information. Important means for that are the official websites of the public institutions and the courts, then public discussions and debates, newsletters, notice boards, etc. With a view to facilitate media access to information, the central public authorities have appointed people responsible of PR.

To ensure transparency in the development of regulatory acts, public authorities post the drafts thereof on their official websites. It was ensured that the objections and proposals to the drafts are received and reviewed and that feedback is communicated. Some institutions have organized public hearings on certain draft laws. On the official website of the Ministry of Justice expert analyses of regulatory acts issued by experts of the Council of Europe are published and on the site of the General Prosecutor's Office and CCECC reports of evaluation and compliance of Moldova with the GRECO recommendations are posted.

The sites contain also information about the most important events held by the institutions, information on the decision-making process, including various orders and decisions approved, the structure of the institution, objectives and functions of the subordinated subdivisions, contact details, approved budgets, descriptions of procedures and documents needed for the registration of legal entities, various public service offers, etc. At the same time, the web pages ensure the online communication with the civil society: people can send suggestions, petitions or receive answers online.

The enhancement of public authorities' websites is due to their modernization in accordance with the Standard Requirements for official websites of the public

authorities, developed by the Ministry of Informational Development in line with the Government decision no. 668 of June 19, 2006.

A series of activities were carried out with a view to automate all level courts and ensure transparency of court decisions. Websites of the Courts of Appeal and the Supreme Court of Justice were launched.

Law enforcement and control bodies (CCECC, MI, Customs Service, Border Guard Service) and the General Prosecutor's Office have reported about the publicizing of anticorruption activities by broadcasting TV reports and newspaper articles, participating in TV and radio programs, and organizing press conferences. An unprecedented event for CCECC was "The Open Doors Day" for the Moldovan media institutions, held in July 2008.

Effective communication is determined by the professionalism of specialists responsible for public relations. A series of training seminars were conducted in 2008-2009 to enhance the skills of the latter, including within the Academy for Public Administration Public, on the topic "Ethics and Communication for Public Officers", within TCP, under the AED implemented program: "*Strengthening Civil Society Monitoring Capacity in Moldova*", within the *MOLICO Project*. At the same time, trainings were organized on the topic: "Access to Information: Step by Step. From Theory to Practice" by "Acces-info" Centre.

Activities focused on training investigative journalists were held within *MOLICO Project* with a view to promote the active role of the civil society and the media in fighting corruption. Public debates were organized on strengthening preventive measures, implemented by CCECC, as well as on the Code of Conduct for Journalists. Study trips abroad were conducted etc.³¹

A series of activities for investigative journalists were conducted by TI – Moldova, namely: 3 annual contests entitled "Covering Corruption in Print Press"; volumes 4, 5 and 6 of the book "Journalists Against Corruption" were published; the handbook "Investigative journalism" was published and distributed to the journalism chairs of 5 universities; the course "Investigative Journalism" was taught to 7 streams of journalism students at 4 universities.

A number of wide national and local activities were held within the "Right to Know Days", conducted with the participation of "Acces-info" Centre, "APEL" Association, CReDO, Independent Journalism Centre, Independent Press Association, Investigative Journalism Centre, CAPC and the support of the Council of Europe, Open Society Institute (Budapest), "Soros-Moldova" foundation, Helsinki Committee for Human Rights (Sweden). Actions within the «Right to Know Days» were also held under the Program "*Strengthening Civil Society Monitoring Capacity in Moldova*" implemented by AED within TCP.

³¹ *Project against corruption, money laundering and the financing of terrorism in Moldova – „MOLICO”, Final report, www.coe.int.*

Deficiencies

1. According to the Monitoring Report on the Implementation of Central Public Administration Reform in the Republic of Moldova, the authorities' effort to ensure transparency of decision-making is insufficient and limited to posting draft decisions on official websites, without posting information about the initiation of public consultations and information accompanying draft decisions: fact sheet, deadline for receiving commentaries and contact data of responsible person. The website sections relating to transparency in the decision-making process are not enough visible and accessible to visitors³².

2. The issue of transparency and public access to official information is permanently in the sight of national and international experts. In 2008 access to information was assessed by a group of experts consisting of representatives of the media and NGOs in the field of freedom of expression and access to information, under the aegis of "Acces-info" Centre³³. The assessment results show a situation which is far from being satisfactory. The conclusions could be summarized as follows:

- although most of the institutions have appointed officers responsible for providing official information, many of them are not able to exercise their duties since there isn't a clear internal mechanism adjusted to the specifics of the institution in terms of communication with the public and securing access to information, even though they were trained within the Academy for Public Administration;
- very few institutions publish or otherwise make available to the public directly, on a general basis, information containing the description of the structure of the institution and its address; the description of positions, divisions and forms of activity of the institution; the description of subdivisions and competencies, the work schedule, the days and time of audiences; other information. References were made to other materials as well, including the agendas of meetings, the decisions under development or those already adopted;
- the institutions use a standard format of electronic messages, which offer each user the possibility to express their complaints. The disadvantage is that there is no set term for the citizens to receive an answer and no notification about the receipt of the message;
- there is no functional mechanism for citizens to take part in meetings of public authorities and institutions, particularly at a ministry level. At the level of district and local councils the problem of public participation in meetings arises only occasionally;

³² *Monitoring Report on the Implementation of Central Public Administration Reform in the Republic of Moldova January-June 2009*, www.rapc.gov.md.

³³ *The Yearly Report on the Assessment of Access to Official Information in Moldova* was developed within the Program Strengthening Civil Society Monitoring Capacity in Moldova, funded by the US Government through Millenium Challenge Corporation, www.alianta.md.

- there is no systematic control from the Parliament and the Government over the actual assurance of free access to information and transparency of decision-making.
 - public authorities have undertaken concrete actions to enhance the relationship with the media. Nevertheless, there is no functional system of systematic information of the media. The press and PR services do not always react promptly and competently to journalists' requests;
3. It is necessary to mention how the Moldovan mass media covers corruption-related issues presented in the quarterly monitoring reports developed within "Media Coverage of Corruption Phenomenon" Project³⁴.

The Monitoring Report for the period of October 2007 – November 2008 mentions that 16 mass media monitored within the project have published 3,911 press materials addressing corruption-related topics. 1,119 of them were published in the printed press and 2,792 materials and programs were broadcast by the electronic media.

The analysis of publications shows the tendency of addressing the corruption-related issues from two different perspectives: positive and negative. Mass media limited themselves to covering official corruption-related statements, the number of well-documented journalistic investigations published mainly in the printed press is small and usually not followed by investigations on the part of competent bodies; anti-corruption strategies and programs are presented with little detail and lack materials on the analysis of their impact, etc.

The mass media as the former of public opinion should be aware of its social responsibility for correct and impartial coverage of activities of all the important actors involved in activities of public interest, strict compliance with the code of professional ethics and support of participation of the population in corruption combating. Public stations should serve the interests of the taxpayer public and not of a party.

Conclusions

The national legal framework establishes principles and ways of ensuring administrative transparency and access to official information. Public authorities have taken specific measures to improve information management, ensuring continuing communication with the public. At the same time, the taken measures have not lead to the expected outcomes.

The Government has repeatedly stated that the civil society and journalists will have greater access to public information; however, the reports drawn up by non-governmental media organizations have emphasized discrepancies between official statements and implementation of the corresponding legislation, which has been also confirmed by a big number of refusals to present information³⁵.

³⁴ "Media Coverage of Corruption Phenomenon" Project was implemented by the Independent Journalism Centre with support of AED and technical support of the International Research and Exchanges Board (IREX) within the Building Civil Society Monitoring Capacity in Moldova Program, www.alianta.md.

³⁵ Freedom House "Nations in Transit – 2009" Report, *Democratic Governance*, www.freedomhouse.org

III. COMBATING CORRUPTION

Within fulfilment of commitments set in the 2007-2009 National Anticorruption Strategy Implementation Action Plan, competent law enforcement bodies continued to apply criminal norms in counteracting corruption acts.

According to statistical data of competent law enforcement bodies, the number of reports on commitment or preparation of commitment of corruption offences has reduced within the last two years³⁶. In 2008, the reported cases registered by law enforcement bodies reduced by 26% as compared to 2007. Within 10 months of 2009, their level reached half of the one registered in 2008.

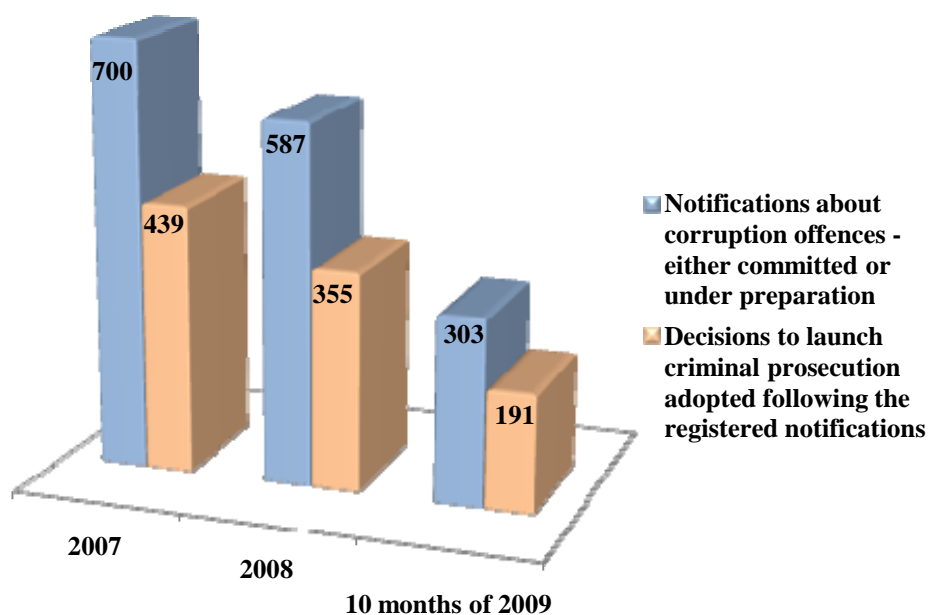


Chart 1. Reports on corruption acts and decisions made to institute corresponding criminal proceedings

Source: data of Anticorruption Prosecutor's Office³⁷

The downtrend is also characteristic of the number of decisions to institute criminal proceedings made on the basis of registered reports. However, the correlation between the number of decisions to institute criminal proceedings and the number of registered reports shows insignificant fluctuations from year to year, making up around 60%. Despite the fact that we cannot assess whether this level is modest or sufficient, law enforcement bodies should increase trust of the society in their work and encourage citizens to report corruption acts and cooperate with competent authorities.

³⁶ According to the Law No.90-XVI of 25.04.08 "On Preventing and Combating Corruption", corruption offences included: passive corruption, active corruption, traffic of influence, bribery, acceptance of illicit recompense.

³⁷ The figures include data of the Prosecutor's Office, CCECC and MIA

It is confirmed by evolution of the number of criminal cases brought to court, which, in relation to the number of decisions on instituting criminal proceedings, shows the tendency of approaching the number of criminal cases brought to court to the number of made decisions. In 2008, this correlation made up 0.51 points as compared to 0.41 in 2007, and within 10 months of 2009 – 0.55 points.

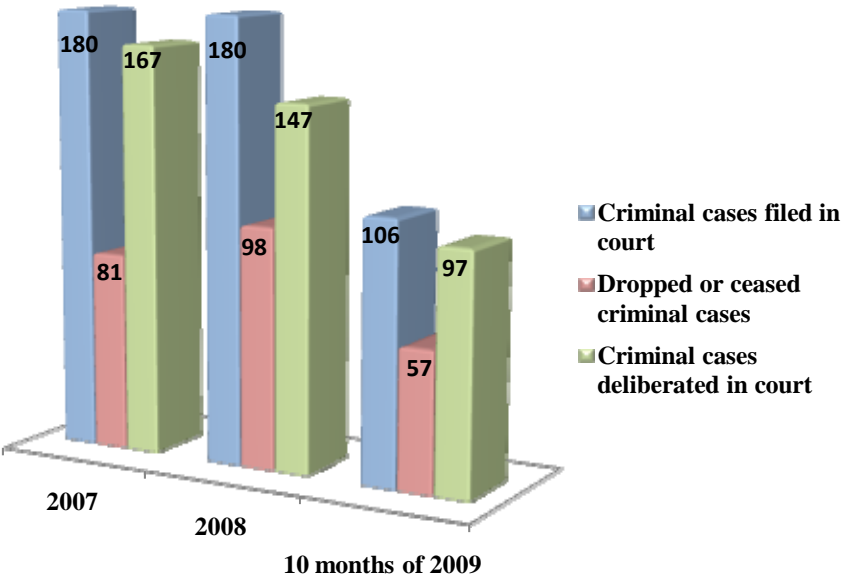


Chart 2. Evolution of criminal cases against corruption offences

Source: data of Anticorruption Prosecutor’s Office

The efficiency of law enforcement bodies related to “criminal cases solved in courts” is positive as well. Thus, within the last three years courts have passed sentences in 90% of criminal cases against corruption offences brought for examination.

The above-mentioned is confirmed by the correlation of about 90% between the number of persons against whom sentences have been passed and the number of accused persons. Within the last years, the evolution of this correlation registers insignificant fluctuations.

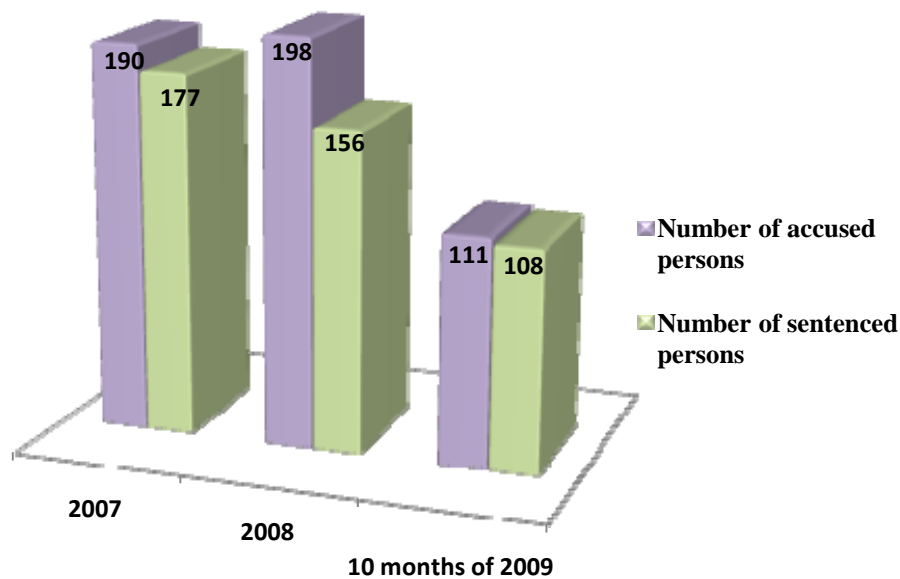


Chart 3. Evolution of the number of persons involved in corruption

Source: data of Anticorruption Prosecutor's Office

The evolution of the number of suspended or closed criminal cases is alarming since maintaining at a high level it covers half of the number of criminal cases brought to court. These cases mainly concern passive corruption, i.e. acts that directly involve executive officials.

Moreover, the biggest share in this section accounts for criminal cases closed because of absence of the fact of crime, which imposes building of capacities of law enforcement bodies in identifying and examining corruption offences in order to decrease the number of suspended or closed criminal cases.

Despite identification and investigation of corruption and related offences by law enforcement bodies, the population has a modest trust in the efforts of the authorities. Inadequate punishment of persons accused of committing corruption acts is one of the widespread reasons.

A study conducted recently by CCECC and the Anticorruption Prosecutor's Office³⁸ on final court sentences passed in case of corruption and related offences, shows that courts have expressed their opinion more frequently in cases of corruption and related crimes with accusation of public authority officials (71%), especially of employees of local public authorities, education and healthcare sectors. This correlation is determined by the number of cases identified and investigated by law enforcement bodies in the corresponding fields.

³⁸ In June-July 2009, CCECC and the Anticorruption Prosecutor's Office conducted a study on final court sentences passed in case of corruption and related crimes. 92 final sentences passed as of the corresponding moment were analyzed.

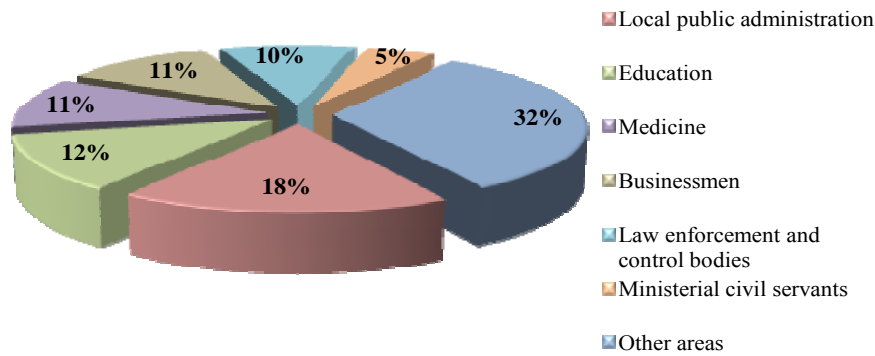


Chart 4. Status of subjects held criminally liable depending on field of activity

Source: Study of CCECC and Anticorruption Prosecutor's Office

On average, a criminal case on corruption, from institution of criminal proceedings to passing of a court sentence, is examined within about 10 months. About 60% of cases were analyzed within 6 months. Despite the fact that the important part of evidence collection takes place within criminal proceedings by the criminal prosecution body, the practice shows prolonged examination of criminal cases in courts as well. There were cases when a criminal case was examined within one month and cases when examination lasted for more than 2 years. This situation can be determined by several reasons, and namely: expert examination of evidences, dismissal of the judge, court clerk, expert, etc.

Only in **38%** of the analyzed cases, the article of accusation established by criminal prosecution body and prosecutor's office coincide with the article of culpability established by court, the rest of criminal cases (**62%**) being re-qualified or acquitted. Thus, the degree of coincidence between the article of accusation and that of punishment is modest.

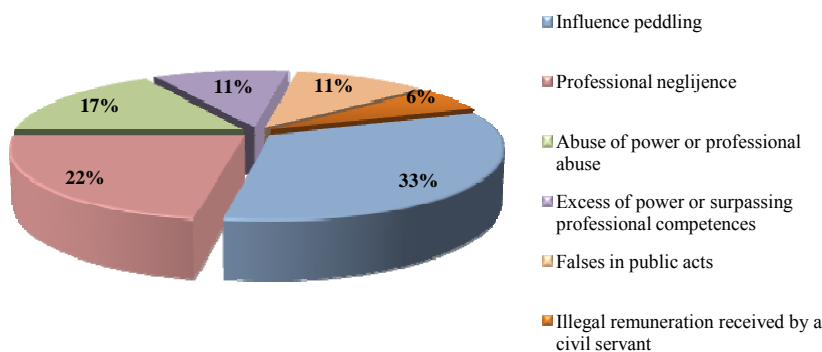


Chart 5. Application of art.55 of the Criminal Code by courts upon examination of corruption and related crimes

Source: Study of CCECC and Anti-corruption Prosecutor's Office

Courts have shown a propensity for applying mild and very mild punishments to persons guilty of corruption and related crimes. In **17%** of the examined criminal cases courts have applied art.55 of the Criminal Code “*Release from criminal responsibility with placement under administrative responsibility*”, and in **15%** of cases courts have passed acquittal sentences. Thus, only in **68%** of the analyzed cases sentences condemning the culprits have been passed.

Application of mild punishments is mainly characteristic of courts of first appearance, where criminal cases are examined by one judge. According to available sentences, the norm of release from criminal responsibility with placement under administrative responsibility was often applied upon examination of such offences as traffic of influence and neglect of official duty.

The analyzed sentences show inequity in applying punishments by courts in criminal cases on corruption and related crimes. Courts often make reference to mitigating circumstances in order to commute sentences, diminishing the prejudicial nature and degree of the committed offence. Thus, punishments established by courts become inferior to material and social damage caused by corruption offences and resources spent by state authorities in fighting those crimes. In certain cases, it is even more “profitable” to commit grave offences, as the illicit advantage considerably exceeds the applied punishment.

Out of the wide range of human rights and freedoms stipulated by the European Convention for Protection of Human Rights and Fundamental Freedoms, the most violated are: right to a fair trial (art. 6), right to liberty and security (art. 5), right to property protection (art. 1, Protocol no. 1 to Convention), right to freedom of expression (art. 10), right to an effective remedy (art. 13).

In this sense, an example could be the case *Guja vs. Moldova*, the first case examine until now by the European Court addressing the right of public officials to disseminate information unmasking illegal actions known to them through performance of official duties (whistle-blowing). The European Court ruled that reporting by a public official or a public sector employee of illegal behaviour or offence at the workplace should, under certain circumstances, enjoy protection. At the same time, the European Court stated that the lack of a viable mechanism of protecting public officials that report illegal actions committed at the workplace does not contribute to reporting corruption actions, because they are afraid of possible repercussions.

Identification, investigation and qualification of corruption acts represent a complex of actions carried out not to the detriment of the person, infringing their rights, but require a special attention on the part of law enforcement bodies that must observe both the legislation in force and international norms.

In this sense, CCECC together with the Council of Europe Information Office, with the participation of the Deputy Head of the Directorate, governmental agent from the Ministry of Justice, Head of Section from the Anti-corruption

Prosecutor's Office, and the Deputy Director of the CCECC General Department of Criminal Prosecution, organized a workshop entitled "Legal Protection of Human Rights – CEDO Jurisprudence". Thus, taking into account the CCECC competence in identifying, investigating and qualifying corruption offences the target group included criminal prosecution officers of CCECC. Within the workshop the following issues were addressed: knowledge of the European institutional and jurisdictional system; case conducting procedure at ECHR, emphasizing observance of human rights when applying criminal procedure constraint measures.

Increased latency of corruption phenomenon diminishes reflection of the real level of corruption phenomenon spreading in the Republic of Moldova in the presented data. It is difficult to identify real statistics on corruption phenomenon, taking into account different classification of registered offences ("corruption offences" and "corruption-related offences") by law enforcement bodies. In the opinion of national experts³⁹, the main difficulty consists in the lack of a clear meaning in defining corruption and related offences in the Criminal Code. At the same time, the statistics on condemnations and their consequences in corruption cases is considered defective.

Existence of the problem of statistical data incoherence was also supported by experts within MOLICO Project⁴⁰.

Conclusions

Combating corruption is a component part of the process of eliminating this calamity and must be implemented in all social fields and at all institutional levels. Despite identification and investigation of corruption and related offences by law enforcement bodies, the population seems to have little trust in the actions of the authorities. In this sense, existence of suspended or closed criminal cases on corruption offences, especially committed by executive officials, is one of the problems. At the same time, the court practice of applying mild punishments diminishes efficiency of the actions taken by law enforcement bodies to combat corruption and favours tolerance of citizens towards corruptible behaviour.

³⁹ "Efficiency of Anti-corruption Policies and Actions in the Context of EU-RM Actions Plan" – publication within the Project "Moldova-EU Relations – Consolidate Public Information and Debate on Key Policy Developments" implemented by the Association for participatory Democracy ADEPT and financed by the Soros-Moldova Foundation, Chisinau, 2009, pag.36-45

⁴⁰ Project against Corruption, Money Laundering and Terrorism Financing in RM „MOLICO”. Final Report. Chisinau, July 2009, www.coe.int.

IV. INTERNATIONAL COOPERATION

Since fighting corruption represents one of the most sensitive topics followed with interest by the international and European community, Moldova has promoted cooperation in this area by complying with the demands of such standards and participating in various actions, initiatives and projects.

Developments

During the report period, the national efforts were focused towards fulfilling the commitments made in view of implementing anti-corruption programs and projects for which the country is eligible (Moldova – EU, IPAP-NATO, MCC).

In order to strengthen Moldova's position of progressing on the way towards European integration, it was necessary to ensure the full implementation and within the established timeframes of the **EU/Moldova Action Plan**, signed on Feb 22 Feb 2005 within the Seventh Meeting of the EU-Moldova Cooperation Council. Among the priorities established by this Plan were the control, prevention and combating of corruption.

All this time, the implementation of the Plan was guided and monitored based on tools that stipulate a set of annual priorities and a schedule of implementation based on the priorities agreed upon by EU and Moldova. The progress reports were adopted in December 2006⁴¹ and April 2008.⁴² After expiration of four years after the implementation of the Plan, the European Commission, when evaluating Moldova's achievements in implementing the anticorruption component, mentioned progress with regards to the adoption and enforcement of important anti-corruption laws, indicated the significant progress made in implementing the GRECO recommendations, at the same mentioning the need for a further support of the progress made, especially by ensuring financial coverage and adopting adequate secondary legislation in view of an efficient implementation⁴³.

During the implementation of the EU/Moldova Action Plan, the European Union provided assistance to Moldova by using various tools, including by funding various projects. The adoption of the National Anti-Corruption Strategy represents the moment when the European Commission became involved with its first project on combating corruption in Moldova⁴⁴. The contribution of the European Union consisted in a pilot activity of a relatively small scope (EUR 250 thousand). Due to the fact that the intermediary results were satisfactory, the European Commission

⁴¹ *Commission staff working document accompanying the: Communication from the Commission to the Council and the European Parliament on the Strengthening of the European Neighbourhood Policy. Brussels, 4 Dec 2006.*

⁴² *European Commission Report on Implementation of the European Neighbourhood Policy in 2007, Brussels, 3 April 2008.*

⁴³ *Progress Report of Moldova, accompanying the communication of the Commission by the Council and European Parliament "Implementation of the European Neighbourhood Policy in 2008, Brussels," 25 April 2009. pag.3-4.*

⁴⁴ *Report of the European Court on efficiency of assistance provided by the EU to Belarus, Moldova and Ukraine in the field of liberalizing security and justice sector, No. 9/2008.*

decided to fund a project in the amount of EUR 3.5 mln. The *MOLICO project* was implemented during August 2006–July 2009 having two objectives – *to ensure the implementation of the Anticorruption Strategy in Moldova based on the annual action plans and to strengthen the system of counteracting money laundering and funding of terrorism in Moldova in accordance with the international standards, success practices and MONEYVAL recommendations.*

During 2007-2009, certain state administration agencies have benefited from the assistance of the EUBAM Mission. Within this cooperation, the experts focused their activity on the strategic initiatives for combating corruption and on the practical application of anticorruption policies in the frontier agencies and law-enforcement bodies of Moldova and Ukraine. At the initiative of the EUBAM Mission, there were set up two permanent working groups for the interstate cooperation of the Moldovan law-enforcement bodies with the Ukrainian ones, from operative and analytical aspects, in counteracting state frontier crimes.

The end of the implementation of the EU/Moldova Action Plan, besides the expiration of the APC timeframe between EU and Moldova, also marks the beginning of a new stage in the bilateral relations: preparation, negotiation and adoption of a new agreement. The Eastern partnership, launched on 7 May 2009 by EU, which also includes our country, provides for the signing of agreements of association with the countries parties to this regional agreement. In this connection, EU decided to start negotiations for a new Agreement of Association with Moldova, starting with January 2010.

In November 2006, Moldova became eligible to benefit from full funding from the **Millennium Challenge Corporation**. The selection of Moldova for the preliminary stage of access to this funding was conditioned by the US Government policy for assisting countries with reduced per capita income as well as by the good performance registered for most eligibility indicators, according to the World Bank estimations. Thus, by complying satisfactorily with those three criteria – fair governance, investments in people and encouragement of economic freedom, Moldova did not meet the requirements of positioning itself above the median line only for one criterion – *combating corruption*. For this purpose, the national authorities have benefited from assistance amounting to USD 24.7 mln from the US Government, implementing the TCP, whose strategic objective was to reduce corruption in the public sector by implementing a number of reforms in the judicial, customs, tax, police, and healthcare systems, reformation and strengthening of the CCECC and of the capacity for monitoring the civil society and the media. The achievements under the TCP were appreciated at the highest level by the donors, which led to policy changes, technical-scientific progress and other reforms that strengthened good governance and enhanced transparency⁴⁵.

⁴⁵ *Speech of the US Ambassador Asif J. Chaudhry during the Conference dedicated to the TCP achievements (September 2009).*

At regional level, **GRECO** plays an important role in supervising the application of international legal tools. Two rounds of evaluation have taken place in Moldova. The recommendations set out in the compliance report, issued according to the first cycle of evaluation, have been implemented in full.

As to the second round of evaluation, GRECO reached the conclusion that Moldova had made significant progress in implementing its recommendations by implementing or treating in a satisfactory way nearly two thirds of the recommendations. The report pointed out significant progress in the following areas: the legal framework of sequester and seizure of goods resulted from corruption; consideration of corruption cases by criminal investigation bodies; the reformation of administration that takes into account combating of corruption; in the area of transparency, supervision of implementation of measures for improving access to the information held by public authorities; involvement of auditors in detection of acts of corruption etc.

As to arrears, the report indicates weaknesses related to the legislation on applying operative measures of investigation, incrimination of accounting violations, no account is taken of the interdependence of corruption with the organized crime and money laundering, there does not exist yet a clear and efficient device for checking income and property declarations, conflicts of interest, on identifying acts of corruption and protection of whistle blowers⁴⁶.

RAI also plays an important role on the regional arena. In 2008, there was ratified a Memorandum of Understanding between the Government of Moldova and the Governments of Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Montenegro, Romania, and Serbia on cooperation in combating corruption through the South East European Anticorruption Initiative, signed in Zagreb, Croatia, on 13 April 2007 (Law No. 59-XVI of 20 March 2008).

A unprecedented event for Moldova was the hosting of the Twelve Meeting of the Management Group of RAI in Chişinău, which took place in October 2008, at which there were presented the reports on the progress made by the RAI member states in implementing the joint measures for repressing corruption in South Eastern Europe and examined proposals of concrete activities according to the priority areas identified in the 2008 – 2009 Work Plan.

The Thirteenth Meeting of the Coordination Council of RAI took place in October 2009 in Sofia, Bulgaria. The representatives of the member states presented their Progress Reports for 2008 and 2009. The Report of the Moldova reflected the entire spectrum of anticorruption achievements against the implementation of the Declaration on 10 joint measures to deter corruption in South Eastern Europe (Brussels, 2005). Analyzing the progress reports of other countries, the conclusion is that Moldova has progressed in preventing corruption, and the measures

⁴⁶ *Progress Report, Republic of Moldova, European Community Commission, Brussels SEC (April, 2009).*

practiced in this area are unique on the regional arena, as other countries are at an incipient stage of institutionalizing such measures.

The Coordinating Council of RAI adopted the Working Plan for 2010–2011. The Plan establishes as national priorities for Moldova the following measures: improving the National Anticorruption Strategy and adopting a new Action Plan for implementing it; establishing an efficient mechanism of cooperation between the civil society and the public agencies; anti-corruption expert examination of the legal framework in view of diminishing the effects of the corruptible factors; evaluating risks in all public agencies and preparing integrity plans; making changes to the existing mechanism of declaring properties and inspecting them; establishing a legal framework that is coherent for verifying conflicts of interest; making changes to the Criminal Code for instituting criminal liability for legal entities for committing acts of corruption; monitoring efficiently the implementation of the National Anticorruption Strategy.

On international level, the events organized by IAACA are relevant, as Moldova is also a member thereof, being represented by CCECC and the Anticorruption Prosecutor's Office. This organization was established in October 2006, in Beijing, China, during the First Annual Conference and General Assembly, aiming at promoting the efficient implementation of the UN Convention against Corruption. Two conferences took place in 2008, during which the national delegation presented experiences and achievements in the anticorruption area.

Moldova was represented by the CCECC staff at several anticorruption forums, the most important of them being:

- Fifth Global Forum on combating corruption and integrity security, held in Johannesburg, South Africa, in 2007. The main objective of the Forum was discussing the practical and efficient measures of preventing and fighting corruption at global level in the light of implementing the UN Convention against Corruption;
- two meetings of the Anticorruption Working Group, organized in 2007 and in 2008 by OCED. The main objective was focused on preventing and combating corruption in the area of public procurement;
- the meetings of the group of experts of the CIS member states, organized in 2009 on the occasion of the negotiations on the draft agreement of cooperation of the member states in combating corruption. At present, the draft agreement is being finalized.
- International Conference "Fighting Corruption and Adequate Administration as Condition for Stable Economic and Social Development of Eastern Europe and Central Asia," organized in 2009 by the Agency for Combating Economic Crime and Corruption of Kazakhstan in cooperation with OCED.

Deficiencies

- During the report period, the initiatives of fighting corruption were supported by the European Union through funding projects. The Government's efforts in implementing the anticorruption efforts were supported also by other donors, including the Millennium Challenge Account Corporation. Coordinating the EU efforts with the assistance provided by other international donors represents a major challenge, especially with regard to the functioning of parallel monitoring structures, which undermines the concept of Uniform National Anticorruption Strategy.⁴⁷

- The participants in the National Conference "Monitoring Anticorruption Policies in Moldova," organized by TI Moldova in November 2009, disclosed a number of problems and drawbacks that are specific for all players involved in implementing and monitoring anticorruption policies. As to the international organizations/donors, the conclusion was: - insufficient transparency of the information related to the implementation of projects (directing and using funds, adopting budgets); - excessively tutoring monitors (need to coordinate monitoring reports, in some cases even press releases); - failure, in some cases, to take an attitude to the alternative opinion of the civil society; - failure, in some cases, to check the national reports (of the Government) on the spot (in the country).

- A problem in implementing anticorruption policy documents proved to be the insufficient funding. This impediment is determining both by the reduced level of initiative on behalf of public authorities in identifying additional funding sources, including external ones, and by the low capacity of efficient and prompt absorption of funds.

Conclusions

During 2007-2009, there were implemented a number of commitments undertaken to the international community in view of implementing anticorruption programs and projects. The achievements made in this area are mostly due to the support provided by the international bodies through the launch of various projects. At the same time, there is no a unified mechanism for coordinating the implementation of external funding programs, which involves parallel monitoring activities and overlaps of the same activities.

⁴⁷ Report of European Court of Accounts on the efficiency of the assistance provided by EU to Belarus, Moldova and Ukraine in the area of freedom, security and justice, No. 9/2008.

V. MONITORING THE IMPLEMENTATION OF ANTICORRUPTION POLICY DOCUMENTS

Monitoring and assessing the implementation of the policy documents is a continuous process of collecting and analyzing information that is relevant for the carrying out the anticorruption policies, estimating the results in view of grounding the decision making by those empowered to do so, ensuring transparency and contributing to improving the anticorruption policies in the country. At national level, this activity is implemented by the Coordinating Council for Combating Corruption and Crimes, the monitoring group, non-governmental organizations, within the implementation of various projects.

Developments

The mechanism for the monitoring and assessing the implementation of the National Anticorruption Strategy stands out through the activities carried out by the Monitoring Group, established by Decree of the Moldovan President. The Monitoring Group includes representatives of the state institutions, of non-governmental organizations and of associations of local public authorities.

The Monitoring Group was assisted by the Secretariat whose functions are fulfilled by CCECC. The Secretariat also collected and analyzed the information submitted by the institutions responsible for executing the actions from the Action Plan, preparing quarterly and six-month reports, ensured the organization of the meetings of the Monitoring Group and their transparency.

The transparency of the activity of the Monitoring Group was ensured by the assistance of the representatives of press agencies and radio stations at most meetings as well as by launching, with the support of the *MOLICO Project*, of a new website for CCECC, which incorporates a separate module dedicated to the Group (www.ccecc.md).

A generalization of the activities carried out by the Monitoring Group is shown in the table 6.

The decisions of the Monitoring Group are resumed to the fact that the public authorities do not undertake enough measures to prevent corruption and protectionism among employees and to ensure the transparency of the decision-making process.

As to the level of implementation of the Action Plan for the implementation of the National Anticorruption Strategy, it is established, as of 1 Oct 2009, that out of 101 actions, 88 were implemented, 10 actions are being implemented (1.3; 1.6; 1.20; 1.27; 3.1; 4.2; 4.12; 4.14; 9.5) and 3 not implemented (1.28 and 1.8 are actions whose execution declined, and 6.6 – was not implemented due to lack of funds). This report estimates the effect and impact of the activities carried out and to what extent the result met the expectations.

Table 6.

Activity/period	2007	2008	2009
Held meetings	8	8	2
On-spot inspections	A total of 3, at: - Customs Service; - Ministry of Informational Development; - Ministry of Ecology and Natural Resources	A total of 3, at: - Ministry of Defence; - Ministry of Transportation and Road Management; - Ministry of Agriculture and Food Industry	-
Audited public authorities	A total of 8 authorities. Topic: implementation of the National Anticorruption Strategy	A total of 8 authorities. Topic: implementation of the National Anticorruption Strategy	A total of 4 authorities. Topic: self-evaluation of corruption risks
Other topics examines during meetings	- Examination of results of on-spot inspections; - Corruption Perception Indicator – 2007 (expert TI-Moldova); - Evaluation of Moldova by GRECO (Moldovan representative at GRECO) etc.	- Examination of results of on-spot inspections; - Report on implementation of TCP; - Implementation of GRECO recommendations, submitted to Moldova during 1 st and 2 nd cycles of evaluation (Moldovan representative at GRECO); - Moldova's cooperation within RAI (Moldovan representative at RAI); - Launching the program "Transparency and anticorruption strategies at local level"; - Report on "Citizens calling the anticorruption hotline: civic responsibility or courage" (CAPC expert); - Corruption Perception Indicator – 2008 (expert TI - Moldova) etc.	- Evaluation of corruption risks in agencies; - Global Corruption Barometer – 2009 (expert TI Moldova); - Opinion survey on treating conflict of interests in public service (expert TI Moldova); - General conclusions on the MOLICO project (anticorruption expert under the project)
Decisions adopted	6	8	2

The activity of the Monitoring Group was followed with interest by the European experts, being positively appreciated especially due to the inspections conducted by the working commissions at public agencies in view of estimating the plenitude of implementation of the Action Plan for the implementation of the National Anticorruption Strategy. Under the *MOLICO Project*, the members of the Group benefited from two trainings, as well as participated in a meeting with Council of Europe experts who formulated recommendations for making more efficient the monitoring of the anticorruption policy documents. The *MOLICO* anticorruption expert offered consulting to the Group during its meetings.

A success practice in monitoring the state institutions denotes the activities carried out by the non-governmental organizations during the implementation of TCP.

In this connection, AED, implementing the program “*Strengthening Monitoring Capacity of Civil Society in Moldova*,” provided technical assistance to five Moldovan NGOs. These organizations – members of the Anticorruption Alliance, conducted monitoring and assessment in the following areas:

1. Agency for Supporting Legal Education and Law-Enforcement Bodies “EX LEGE” – judiciary;
2. Resource Centre for Human Rights NGOs (CReDO) – healthcare;
3. Pro Marshall Centre of Moldova – customs and police;
4. TI - Moldova – tax;

CAPC monitors the Centre for Combating Economic Crime and Corruption.

Monitoring NGOs focused in their activity both on the analysis of data from official sources and on those collected through opinion polls of beneficiaries, staff interviews, expert evaluations, etc.

Public institutions proved to be relatively open to cooperation with the civil society. The experience of the monitors was covered in the “Institutional Openness Index” assessed on a scale from 1 to 5 (where 1 is the lowest and 5 is the highest possible score). The overall average of the “Institutional Openness Index” for Quarter IV 2008 made up 4.1.

Monitors developed 5 consolidated reports covering the results of TCP monitoring within the four quarters of 2008 and the first quarter of 2009. The consolidated reports, as well as reports on specific monitored areas are placed on the website www.alianta.md.

The conclusions presented in the consolidated reports come down to the following:

- The **judicial system** witnessed certain visible and real change. To the question whether there had been some change in the court they represented after TCP implementation, 60% of judges gave an affirmative reply, however 40% considered that that change had been inessential and hardly perceivable⁴⁸. There are difficulties in the judicial system with allocation of human and financial resources, with objective recruitment of judges, especially enforcement officers and technical staff (clerks of the court, translators, office workers, etc.), with reduction of case examination terms, etc.

- Most of the measures stipulated for implementation in the **health system** have been finalized, there are 7 activities left. The impact on the sector is not visible for several reasons: delays in implementation of activities, thus, the period has been too short to be able to generate specific results, while some of the carried out activities require the other that have not been implemented yet in order to produce positive effect. Generally, under such circumstances the effect of institutional and legislative reforms can be hardly seen.

⁴⁸ *Random survey of 50 judges from monitored courts carried out by the „EX LEGE” Agency for Support of Legal Education and Law Enforcement Bodies*

- **Tax system:** out of the 8 planned activities, 4 have been finalized, 1 is being tested, while the other 3 are delayed. Most delay is present in Activity 4 (Creation and implementation of a distant tax payer self-servicing mechanism through global Internet), 2 (Creation of the Tax Mediation Institute, development and adoption of the Law on Tax Mediation), and 5 (Creation and implementation of the “BARCOD” information system). These delays account for both objective and subjective reasons. Among the objective factors, there are delays of partners in implementation of certain projects (especially those related to software development), frequent changes in the top management within the State Tax System, as well as the fact that adoption of the Draft Law on Tax Mediation mostly depends on the activity of the Parliament.
- The extent of implementation within the **Customs Service** expressed statistically demonstrates that out of 27 activities: 20 have been accomplished, 5 are being implemented and their terms expire by the end of 2009, while 2 activities have been carried out partially.
- Within the **M.I.A.**, out of 39 activities: 35 have been fully accomplished, while 4 have been partially implemented. As for creation, maintenance, and implementation of the information system, the monitoring results indicate that there are some barriers due to the lack of financial means to procure the Managed Switch Port Mapping Tool, which hinders the integral accomplishment of this task.
- Within the **C.C.E.C.C.**, out of 38 actions, 23 have been accomplished, 12 have been partially carried out and go on, while 3 have not been carried out. According to the second survey of TI-Moldova, C.C.E.C.C. has showed progress in all areas (victimization, pressure and spread of corruption, C.C.E.C.C. credibility and C.C.E.C.C. professionalism).

Creation of a Civil Board to monitor C.C.C.E.C. activity consisting of 9 members, representatives of non-governmental organizations of the Republic of Moldova, has been an innovative mechanism, unprecedented for the country. The Regulations of the Board’s activity have been approved by the Decision of the Government No. 1210 of 29.10.2008 „*On the Civil Board to monitor the Centre for Combating Economic Crimes and Corruption*”.

The Civil Board started its activity in 2009 by approving its own Regulations and Action Plan. The transparency of the Civil Board was ensured by creation of a separate module on the C.C.E.C.C. website dedicated to the Board’s activity (www.cccec.md/Consiliul_civil). The first conclusions on the C.C.C.E.C. activity were presented by the monitors at the meeting in July 2009. Civil Board members appraised the successful policies carried out by C.C.E.C.C. in the field of activity transparency, corruption prevention actions, public awareness raising, risk self-assessment, as well as cooperation with citizens through the “hotline”, electronic mail, and the petition system.

In 2009, TI-Moldova carried out a study on assessment of control of the legal use of public resources, enforcement of the decisions of the Court of Accounts and integrity of its auditors – important aspects in promoting *transparency and responsibility in public finance management*. This monitoring was carried out based on the Memorandum of Cooperation signed between TI-Moldova and the Court of Accounts on 5 March 2008.

A survey carried out within the study pointed out a set of parameters that positively characterized a number of aspects of the Court of Accounts' activity, including objectiveness of findings, conclusions and decisions of the auditors of the Court of Accounts, high level of the auditors' professionalism, guarantee of confidentiality of the information obtained within course of duty and neutralization of the information obtained for personal advantage.

The objections formulated by the respondents referred to non-implementation or inadequate implementation of internal control/audit system for verification of the use of public resources within public institutions, inadequate examination of legislation violations and frequent non-application of sanctions to the persons guilty of violations committed in management or use of public funds, non-publishing of the results of the control/audit and examination of the decisions of the Court of Accounts, as well as of measures implemented to eliminate the violations detected within the audit, etc. by the majority of public institutions. The experts of TI-Moldova presented a series of recommendations, the implementation of which will contribute to correct management of public finances and prevention of violations or possible acts of corruption in this field.

Deficiencies

- According to provisions of p. 3.2. of the National Anticorruption Strategy, the role of the Strategy coordinator at the general level and guarantee of responsibility of public institutions in implementation of action plans is vested with the Coordinating Board on Corruption and Criminality (hereinafter Board). Such a Board was established through the Presidential Decree of 28.05.2001 (further abrogated on 19.12.2008). The monitoring group reported every trimester to the Chairman of the Board on the carried out activities. At the same time, the activity of the Board did not include examination and decisions on implementation of the National Anticorruption Strategy. Ineffective interrelations between the Monitoring Group and the Board have been mentioned by European experts within the *MOLICO Project*⁴⁹.

By the Government's Decision of 28.11.2008, a new Board was established beside the Cabinet of Ministers and Regulations of its activity were approved. In Trimester II 2009, the Board examined the issue of implementing GRECO Recommendations addressed to the Republic of Moldova according to the round II

⁴⁹ MOLICO Project against Corruption, Money Laundering and Terrorism Financing in the RM, Final Report, www.coe.int.

of evaluation and preparation for the round III of evaluation. Decisions of the Board have not been published.

- One of the problems mentioned both by national and foreign experts referred to the lack of a single mechanism for monitoring and coordinating all the documents on anticorruption policies implemented in the country. This problem has emerged lately through implementation of various projects and programs in the Republic of Moldova financed from different sources and their dispersed monitoring.

- Problems specific to the activities of all the actors involved in implementation and monitoring of anticorruption policies (civil society, public institutions, international organizations/donors) were highlighted at the Conference entitled “Monitoring of Anticorruption Policies in the Republic of Moldova” organized by TI-Moldova on 4 November 2009⁵⁰. The following was mentioned with regard to the civil society and public institutions:

- *Civil society*: poor monitoring capacity and low level of professionalism, insufficient experience, affiliation and political engagement, lack of unity/cohesion, preconceived attitude in appraisal of certain actions of public institutions, lack of independence and objectivity, gaps in ethics and integrity, insufficient cooperation with the media and disregard of adverse opinions;
- *Public institutions*: limited access to information, reticence to the monitoring actions by the civil society, not taking stand on the proposals of monitors, self-justification in case of criticism on the part of the civil society, not informing the public on the measures taken as a result of monitoring, lack of transparency, especially in decision-making, predilection for “selection” of certain monitors, superficial examination of addresses of the civil society, presentation of formal answers, lack of prompt reactions in the activity of “hotlines”, political engagement.

- The National Anticorruption Strategy and Action Plan for 2007-2009 do not include a control system appropriate for the monitoring activity. Lack of (quantitative and qualitative) progress indicators has complicated measurement and appraisal of the success of each of the carried out activities. The reports presented by public institutions to the Secretariat of the National Anticorruption Strategy Implementation Monitoring Group are not quality, they include just a description of some carried out activities and do not present their quantitative and qualitative analysis.

- At the sector level, the activity of the Civil Board for CCECC monitoring is a good practice. At the same time, the Civil Board does not have a status of a legal entity, while the lack of provisions on its financial stability makes it dependent on the authorities. Moreover, Civil Board members have not been allowed to access restricted information, which will make the Board’s activity incomplete and

⁵⁰ Press release of TI-Moldova placed on www.transparency.md.

inefficient. According to the Anticorruption Alliance, these circumstances are going to undermine the real participation of the civil society in the process of monitoring anticorruption measures taken by the Government.⁵¹

Conclusions

The insufficiency of measures to monitor implementation of anticorruption policies in the Republic of Moldova leads to the situation, when anticorruption activity does not meet expectations, as concluded at the Conference organized by TI-Moldova on 4 November 2009 with the title “Monitoring of Anticorruption Policies in the Republic of Moldova”. The activities of all the actors involved in implementation and monitoring of anticorruption policies are deficient.

The Report of the Commission of European Communities on the progress of the Republic of Moldova (Brussels, April 2009) mentions the need to continue consolidation of the mechanism for monitoring the National Anticorruption Strategy and real involvement of stakeholders from the Government to the civil society.

Relevant recommendations have been made by European experts in the Final Report on implementation of the *MOLICO Project*, including the need to establish a transparent and coherent national monitoring mechanism capable of ensuring equal presence of the civil society and the private sector in monitoring, of approaching central and local public authorities, of taking on concrete actions based on reports and recommendations put forward by the Monitoring Group.

⁵¹ Report of the Freedom House „Nations in Transition” – 2009, www.freedomhouse.org; Anticorruption Alliance: Limiting of the authorities of the Civil Board for CCECC monitoring, www.civic.md.

GENERAL CONCLUSION

Corruption in the Republic of Moldova is perceived both internally and externally as a particularly serious and dangerous phenomenon that attacks the economic and political bases of the society, endangers the stability of state institutions and affects the living standards of the population.

Unequivocal declaration of the development vector of the Republic of Moldova in line with the standards of the European Union and countries with advanced democracy has provided an impulse to intensify corruption prevention and combating activities.

The efforts have been directed towards consolidation of the legislative and institutional framework, elimination of corruption through criminal-restrictive measures, adequate implementation of corruption diagnosis and prevention instruments, promotion of constructive partnership between state authorities, civil society and private sector, intensification of cooperation with relevant international institutions.

The efficiency of taken measures, as well as addressed problems were highlighted in various reports drawn up both by state authorities and nongovernmental organizations, official statistics, sociological surveys, and opinions of foreign experts. The conclusions of the report come down to the following:

1. An impressive tool kit comprising legal instruments for transparency, responsibility and anticorruption has been created in the Republic of Moldova. At the same time, it is the time to improve the anticorruption legislation by its integral adjustment to international anticorruption instruments, development of efficient mechanisms for application of the regulatory anticorruption framework. The public financing system requires serious attention of state institutions in order to prevent the political corruption phenomenon in general and corruption in financing of political parties and elections campaigns in particular.
2. Corruption proofing expertise of draft legislative and regulatory acts by the Government proved its viability as a corruption prevention measure, having managed to convince the legislative that the concerns about the corruptive potential of regulations were grounded. Thus, CCECC and non-governmental organizations will continue implementing and spreading the corruptibility expertise methodology by publishing extended reports on the result of this activity, their impact, identified drawbacks, and recommendations to improve the regulatory framework.
3. A series of measures have been taken to modernize public administration, optimize the decision-making process, and to build institutional capacity in corruption prevention and combating, however the results do not meet the expectations. It is still necessary to ensure continuity of the reforms launched in the country in the public and private sectors, judicial and legal systems, to intensify efforts for identification of institutional risks of corruption and its reduction, to

improve human resource management by establishing a professional and integral framework.

4. Anticorruption awareness raising and education campaigns have been carried out by promoting the legal culture and anticorruption standards. At the same time, these activities have been sporadic with poor participation of the public, civil society, and business environment. There is a need to continue largely promoting and developing campaigns for public education in the spirit of intolerance to corruption by coordinating the efforts of state and non-governmental institutions.

5. Public authorities have taken concrete measures to improve information management, ensure continuing communication with the public. At the same time, the carried out activities have not achieved the expected outcome. A permanent and constructive dialogue still has to be established between state institution and the public, a real transparency of the decision-making process has to be ensured. It is necessary to identify, develop and implement an adequate information policy that would be able to present real successes and failures in corruption combating, to attract support of the civil society for anticorruption policies, including preventing development of a phobia about this phenomenon in the population.

6. Despite detection and investigation of corruption and related offences by law enforcement agencies, the population seems to have little trust in the actions of the authorities. In this sense, there are the following priorities: - to raise the trust of the society in the actions of law enforcement agencies in order to encourage citizens to report corruption acts and to cooperate with competent authorities; - to build the capacity of law enforcement bodies to detect and instrument corruption offences in order to reduce suspension or closure of criminal cases; - to build the capacity of courts to ensure equality in establishment of criminal liability and punishment for committed corruption offences; - law enforcement agencies to develop an interdepartmental document on classification and keeping record of corruption and related acts; - to ensure implementation of the Law on Automated Integral Information System keeping record of offences, criminal cases and persons who have committed offences, especially as a single state-level record of punishments applied to persons who have committed offences.

7. The achievements in the anticorruption field mostly account for the support offered by international bodies through launching of various projects. At the same time, external financing programs have not been sufficiently coordinated, which has led to parallel monitoring activities and overlapping of the same activities. The Government shall develop and implement a single coordinating and monitoring mechanism for anticorruption activities carried out including with external assistance, largely involving the civil society.

8. As regards the cycle two of evaluation, GRECO came to the conclusion that the Republic of Moldova had made a significant progress in implementing recommendations, at the same time pursuing to intensify efforts in order to

implement the remaining ones. The state bodies shall take concrete measures to prepare for the cycle three of evaluation by GRECO based on the compliance of the national legal framework to incriminations stipulated in the Criminal Convention on Corruption, its Additional Protocol and the Guiding Principle 2 of the Resolution (97) 24, as well as compliance of the national legal framework to the Recommendations of the Committee of Ministers of the Council of Europe Rec (2003) 4 on the common rules against corruption in financing political parties and election campaigns.

The draft Action Plan for 2010 on implementation of the National Anticorruption Strategy contains specific measures developed based on the objectives of the policy document and conclusions of this report.

The structure of the Plan consists of 4 chapters and 8 activity directions, including:

- Consolidation of the national legislative framework in order to facilitate the anticorruption process;
- Making the institutional system more efficient;
- Prevention of corruption in public administration;
- Anticorruption education of public officers;
- Optimization of controls and interdepartmental cooperation;
- Guarantee of transparency in the public sector;
- Involvement of the civil society in anticorruption activities;
- Implementation of international standards in the field.

The paradigm of corruption reduction in the process of building a democratic and constitutional state makes the current Government to continue addressing this issue at the strategic level. It is going to be successful only given a thorough analysis of the current situation, prioritization of the existing problems, development and implementation of a new policy document in compliance with the present norms of the national and international law. The need to adopt a new anticorruption strategy represents one of the recommendations expressed in the Final Report on implementation of the *MOLICO Project* (July 2009).

In this sense, it seems to be worth developing a White Book of studies on “Corruption in the Republic of Moldova” that would describe the current situation of the corruption phenomenon, would address problems that determine the spreading of this calamity in the important sectors of the political, social and economic life from the perspective of various studies, reports and surveys, and would further define the strategic objectives in the field and ways of their implementation in the future.