

**CENTER FOR COMBATING ECONOMIC
CRIMES AND CORRUPTION**

**NATIONAL REPORT
ON PROGRESS OBTAINED IN THE PROCESS OF PREVENTING
AND COMBATING CORRUPTION**



MOLDOVA

**CHISINAU
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The phenomenon of corruption affects more or less all the European countries, but the developing countries in the process of transition to the market economy are the most vulnerable towards big risks related to corruption.

The globalization of the phenomenon of corruption, diversification of forms and types of corruption as well as its ill-fated implications over the social systems put the basis and elaborated some adequate strategies for prevention and combating corruption both at national and international levels.

The authorities of the Republic of Moldova were permanently preoccupied with the problem of prevention and combating corruption, to this compartment having undertaken many actions and as a result, at present are recorded some achievements in this field.

Significant progress has been achieved in domain of prevention and combating corruption in the country as well as efficient implementation of the National Anticorruption Strategy and this fact is proved by the outcomes of opinion poll presented by the NGO Transparency International – Moldova on the Perceived Index of Corruption in the country. According to this index, in the year 2005 the Republic of Moldova was placed on the place 95 out of 159 countries included in this list, the index in this case constituting 2,9. To compare with: in the year 2004 in this sense Moldova was placed on place 117 out of 146 of countries, the index being 2.3.

I. Institutional and legal framework

1.1. National legal framework

Among the first undertaken measures in prevention and combating corruption can be remarked the *State Program for combating delinquency and corruption for the years 2003-2005*, approved by the Decision of the Government nr.1693 from 27th December 2002. With the view of realization of the tasks drawn in this Program, the law enforcement and control institutions from the country have adjusted internal plans for the years 2003-2005. There were elaborated and handed

over for endorsement draft amendments to the legislations, as well as to the **Law on prevention and combating money laundering and terrorism financing, Law on the Operative Investigative Activity, Criminal Code and Code on Administrative Contraventions** and others. For the assurance of international cooperation in prevention and combating corruption there were signed agreements on cooperation of similar services from Kazakhstan, Romania, Lithuania, Estonia and Republic of Korea.

The activities of law enforcement and control institutions are as well permanently centered on efficient realization of provisions of Joint Program of European Commission and of the Council of Europe for the support of democratic reforms in the Republic of Moldova for the years 2004-2006. It is necessary to mention the fact that the provisions of this Program are being combined harmoniously with objectives of the National Strategy for prevention and combating corruption, which have the purpose to reduce corruption as a basic factor that impedes the normal course of political, social and economic reforms in the Republic of Moldova.

National Strategy for prevention and combating corruption and Action Plan for its realization were adopted on 16.12.2004 by the Decision of the Parliament nr.421-XV. At the elaboration of the Strategy was taken into account national experience in this domain, as well as the practice of some countries and recommendations of international bodies. The concepts are reflected in three compartments:

- Corruption in the Republic of Moldova, which includes notion of corruption, essence, causes of its appearance and its consequences.
- Measures for prevention and combating corruption, which includes the refinement of legal framework and guaranteeing of applying the legislation, prevention of corruption in public institutions and political process, intensification of cooperation of public institutions with civil society and expansion of international cooperation.
- The mechanism of implementation of the Strategy.

The efficient implementation of the objectives of the Strategy is achieved by realization of the Action Plan. 10 priority measures and 45 complementary were specified in the Action Plan for the year 2005, having indicated the terms for their fulfillment and nominating the competent institutions. It is necessary to mention the fact that the contribution of the **Center for Combating Economic Crimes and Corruption** in the realization of this Plan is significant, being nominated for fulfillment of 41 actions (75 % of the total number of actions) as main responsible body and as co-executor.

One of the basic priorities of the activities of central public administration institutions, especially of law enforcement institutions of the Ministry of Justice, was the review of national legal framework by its adjustment to international standards with anticorruption character. As a result there were elaborated and sent to the Government for examination and approval a number of draft amendments to the legislation in force, as well as some new laws with anticorruption aspects. For example:

- **Draft Law on amendment of art. 327, art.332 and art.335 of the Criminal Code of the Republic of Moldova** referring to exclusion of words “in material interest or in other personal interest”.
- **Draft Law on completing of the Code on Administrative Contraventions** with a new article **162/15** “Violation of legislation with the view of prevention and combating money laundering and financing of terrorism”.
- **Draft Law on completing the Criminal Code** with a new article **182/1** “Corruption of voters”.
- **Draft Law on financing of political parties and of electoral campaigns**, which provides efficient mechanisms for monitoring by means of mass informing and non-government organizations of political parties with the view of assurance transparency and their responsibilities.
- **Draft Law on declaration of incomes, property and means for gaining incomes by physical persons of the Republic of Moldova.**
- **Draft Law on conflict of interest.**

There was also proposed a number of amendments to the **Law nr.633-XV from 15.11.2001 “On prevention and combating of money laundering and financing of terrorism”** with the view of presenting of information on suspicious, cumulative and limited transactions by protected channels. By the Decision nr.733 from 20.07.2005 the Government has adopted and presented to the parliament the Draft for examination.

An important step in prevention of corruption is considered the adoption by the Government of the Republic of Moldova on 28th June 2005 of the **Decision nr. 615 “On some measures for prevention of corruption and protectionism within the framework of public institutions”**, according to which the authorities of central public administration are obliged to organize internal control for prevention of corruption cases and monitoring of implementation of institutional measures for prevention of corruption and protectionism.

1.2 International legal framework

A very important thing in this context is the participation of the Republic of Moldova in the **Stability Pact Anti-Corruption Initiative for South Eastern Europe (SPAI)**, in which framework took place an intense activity for joining:

- Criminal Convention on Corruption, ratified on 30.10.2003 by the Law no.428-XV;
- Civil Convention on Corruption, ratified by the Law no.542-XV from 19.12.2003;
- Convention on Money Laundering, tracing, sequestering and confiscating the incomes coming from criminal activity, ratified by Law no.914-XV from 15.03.2002;
- GRECO, by Law no.297-XV from 22.06.2001.

The efficient implementation of these Conventions in the field of combating corruption influences very much the successful fulfilling of the state tasks. As an example, in accordance with Criminal Convention on Corruption, the Criminal Code of Republic of Moldova delimitates the corruption from public sector from the corruption in private sector and includes the definitions of passive corruption (art.324) and active corruption (art.325).

Although the **UNO Anti-Corruption Convention**, signed on 27.09.2004, is under the ratification procedure, the Moldavian Parliament has already received a bill for the modification of the national laws in accordance with the demands of other international treaties, that Moldova is a part, for the introduction of the notions of *public foreign agent, employer of a public international organization*.

Republic of Moldova ratified the UNO Convention on combating transnational organized crime, adopted in Palermo, on 12-15 December 2000, by the Law no.15-XV from 17.02.2005.

Republic of Moldova, as many other member-states of the Council of Europe, signed on 15.05.2003 the Protocol on amending the European Convention for repressing terrorism, wishing to consolidate the fight against terrorism and respect human rights.

Due to the fact that Civil and Criminal Conventions cover the majority of the stipulations of **OECD's Convention on Fighting Corruption among foreign official workers, involved in international transactions**, at the moment, the Republic of Moldova's position in signing and ratifying the Convention is being revised.

1.3 Institutional framework

The efficient implementation of national and international anti-corruption strategies and programs, imposes the presence of an adequate institutional framework, with this purpose being done the following :

a) The **Center for Combating Economic Crimes and Corruption** was created as the main institution with the prerogatives of preventing and fighting corruption. It activates on the basis of Law no.1104-XV from 06.06.2002.

b) By the Decision of the Parliament no.1429-XV from 07.11.2002 there was created the **Anti-corruption Prosecutor's Office** and conducting criminal pursuit – a special subdivision within the General Prosecutor's Office. According to the Constitution (art.124), the Law on Prosecutor's Office (art.4) and the Code of Criminal Procedures (art.52), the Prosecutor's Office conducts and exerts the criminal pursuit, represents the accusation in Courts, as well s/he verifies the

legality of actions in criminal processes conducted by criminal prosecution institutions.

c) With the purpose of the creation of the mechanism of implementation of the Strategy, there was created the **Monitoring Group of the Strategy implementation process** on the basis of the Presidential Decree nr.2231-III from 17.02.2005. It consists of representatives of the institutions involved in this process, as well as of non-governmental organizations, including Transparency International – Moldova, associations of business people and of associations of local authorities. The function of **Secretariat of the Monitoring Group**, in accordance with the Strategy, was assigned to the **Center for Combating Economic Crimes and Corruption**.

d) The **Coordinating Council in matters of combating corruption and criminality** was created under the Presidential Decree from 28.05.2001 near the President of Republic of Moldova with the purpose of coordinating the public authorities' activities of ensuring national security by fighting corruption and criminality and respecting the public interest, human rights and liberties. According to National Anti-corruption Strategy, the Council coordinates at general level the Strategy and ensures the responsibility of public institutions and the fulfillment of the tasks provided by law. As well, monthly, after each meeting, the Council is informed by the Monitoring Group about the process of implementing the Strategy.

It is of big importance to mention that during 10 months of 2005 the Monitoring Group reunited in 6 sessions of work, where were discussed the undertaken measures and the difficulties that the public institutions confronted with in the process of fulfilling the Actions Plan. There were discussed organizational themes and took place meetings with European experts. In the framework of some of these meetings were listened the reports of the Ministry of Interior and of representative of Ministry of Justice about the results of the implementing of the Anti-Corruption Strategy. A working meeting is planned to be organized till the end of the year 2005. There will be presented suggestions for bringing up to date the Action Plan,

and of modification and completing the Strategy, including the review of the composition of the Monitoring Group.

II. The Anti-Corruption activity

2.1 Corruption prevention

The awareness of the impossibility of uproot corruption only by applying some criminal-restrictive measures needs a new approach with combining preventive and tracing out measures, instruments of sanctioning.

In this way, the preventing measures consist of the improvement of the legal framework and making the institutional framework efficient in the anti-corruption aspect, providing the transparency of the public authorities' activity, anti-corruption education a.s.o.

In common with the European Council, the Center organized a number of workshops and round tables on *“The financing of political parties and electoral campaigns”*, *“Reviewing the competence of law-enforcement with prerogatives in preventing an combating corruption”*, *“The investigative journalism and the conflict of interests”*, *“Promulgation at the national level of the Joint Declaration on 10 measures to curb corruption in the South-Eastern Europe”*, *“The Republic of Moldova in SPAI framework”*, a.s.o.

The non-governmental organizations play an important role in efficient fulfillment of the activities of preventing corruption. As an example, Transparency International – Moldova in the reported period has taken a number of anti-corruption measures in the Republic of Moldova and provided the access to information by: publications and scientific studies and researches, organizing anti-corruption conferences, broadcasting anti-corruption advertisements on TV and radio a.s.o. It organized an exhibition of caricatures *“Painters against corruption”*, being presented the works of about 30 painters from the Republic of Moldova, Romania and Ukraine. It had the purpose of awareness of public opinion about the danger of corruption, the dissemination of an ethic behavior and intolerance

regarding corruption. There was organized a concert with the generic “Say no to corruption”, that was attended by about 7000 spectators.

Within the framework of the project „Promotion of rights of entrepreneurs” there was organized a cycle of seminars “Rights and obligations of entrepreneurs in relationship with control bodies” by the NGO “youth for Democratic Initiatives”, where as a specialized law enforcement body and with control functions over the activity of entrepreneurs was invited the Center for Combating Economic Crimes and Corruption, whose participation is included in the activity of prevention and contributes to increase of prestige of this body towards the public opinion.

A special attention is paid to the process of professional refinement, establishing as objectives creation of favorable conditions for development and maximum realization of the intellectual and creative potential of employees, bringing up to date of knowledge, creation of new experiences and professional skills according to present economic, social and political processes. Thus the representatives of law enforcement and control institutions have participated at a number of seminars, carried out under the guidance of international bodies, such as: “Offences committed by chairmen”, “Training of trainers in domain of constituent elements of corruption offences”, “Assessment of risks of law enforcement bodies”, “Fight against corruption in the RM”, “Techniques for anticorruption investigation”, “Modern tactics for prevention and combating corruption”, etc.

Recently, the Center’s employees in collaboration with representatives of the Ministry of Internal Affairs, General Prosecutor’s Office and the Supreme Court of Justice participated at the training “Modern tactics of preventing and combating corruption” within the Bureau for Preventing and Combating Corruption from Latvia, organized and carried out under the auspices of the Council of Europe.

2.2. Anticorruption education

The major objective of the policy for prevention of corruption in the reported period was the **awareness of civil society** towards the corruption and activity of authorities in domain of prevention and social control of this phenomenon.

The results of activities of the specialized bodies with functions of prevention, disclosure and counteraction of corruption acts and economic crimes were permanently elucidated in mass media means. For instance, during the 9 months of this year by the Center there were presented 100 press communications referring to the activity of prevention and counteraction of corruption with revealing of concrete cases of disclosure of corrupted functionaries. The broadcasted communications were conceived in such a way that there should have been reflected not just a concrete counteracted act, but also the social phenomenon which exists and is manifested by this individual case.

The Center in common with Transparency International Moldova undertook a number of measures for prevention corruption in the educational system with organization of lessons about intolerance towards this phenomenon, acquaintance with normative acts in force at the State University “Bogdan Petriceicu Hasdeu” from Cahul, State Medicine and Pharmacy University “N. Testemiteanu” and Emergency Hospital from Chisinau.

Under the same aspect there were organized educational seminars in institutions of public administration: Scientific and Practical Center for Preventive Medicine, State Principal Fiscal Inspectorate and Fiscal Inspectorate of the municipality Chisinau, Labor Institution, License Chamber, National Agency for Regulating in Telecommunications and Informatics and at the Coordinating Council of TV and Radio Broadcast.

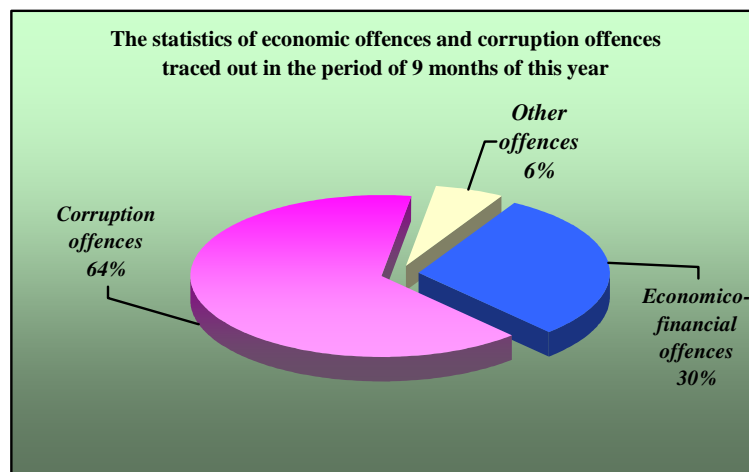
2.3. Combating Corruption

The Center for Combating Economic Crimes reviewed its strategy for activity by passing from tracing and documentation of unique offence episodes to disclosure of fraudulent schemes practiced by criminal groups guided by persons who occupy high offices in state enterprises and institutions.

To this chapter the Center continued the undertaking actions of disclosure and annihilation of “white collars”, created in public and private sectors. Such Group was disclosed at the air company “Air Moldova”, the ex- chiefs of which were

charged of embezzlement of **232 000 \$**. For repairing the damage caused to the state, there were sequestered goods from their property in total value of approximately **180 000 \$**.

By the criminal schemes conceived by these clans is damaged the public budget, a compromise to a good functioning of public institutions, as well undermining of trust of citizens in public authorities. In the reported period there were started **459** criminal cases, out of which **296** (64%) refer to the corruption crimes, 136 (30 %) – economical and financial and 27 of other types of crimes.



Out of bribery cases disclosed by the Center for Combating Economic Crimes and Corruption with an increased resonance for the society are worth mentioning:

- ◆ **81 000 \$**, received from the director of a firm by the ex-director of the Department of inter ethnic relations in compliance with the chief of the Chair of Criminal Law of the Free International University of Moldova (ULIM), doctor in law, lawyer for the influence on the favorable decision;
- ◆ **200 000 lei** received from the technical director of the Direction Capital Constructions of the mayoralty Chisinau from an economic agent for gaining at the auction the right to effectuate reparation works;
- ◆ **90 000 lei** received from the deputy chief of the Center for Preventive Medicine from municipality Chisinau, for authorizing the transfer of a sum of money to the account of the firm;

◆ **29 000 lei** received from the mayor of the village Hiliuti, district Falesti, from a businessman for favoring the winning of the alienation auction of the unfinished building of the kindergarten from the village.

◆ **15 000 \$** received from a lawyer for the purpose of favorable issue by a commercial bank of a credit in amount of 550 000\$ for an economic agent.

As for the chapter on offences committed by representatives of local public administration it is important to mention that during 9 months in 2005 the Center for Combating Economic Crimes and Corruption traced out **65** offences on corruption.

III. International cooperation

The manifestation of corruption by its multiple and complex forms has determined the Republic of Moldova to participate in more initiatives and working groups at international level, thus conditioning application of democratic performing standards on creation of obstacles on the way of this phenomenon.

A significant place in this context comes to the Center, which during its activity represented the Republic of Moldova participating at activities of the Stability Pact Anticorruption Initiative in the South Eastern Europe (SPAI), MONEYVAL Committee, Euro Asian Group of FATF type, EGMONT Group, etc.

During the period of holding the chairmanship-in-office of BSEC by the Republic of Moldova, in Chisinau for the first time in the history of BSEC was carried out the Conference of BSEC member states “Collaboration in prevention and combating economic crimes – a premise to regional security”, which resulted into adoption of a joint Declaration for collaboration and efficient cooperation with the view of combating economic frauds, both at national and international levels.

An important place in this context comes to the participation of the Republic of Moldova to the activities of the **Stability Pact Anticorruption Initiative in the South Eastern Europe (SPAI)** and **GRECO** according to which our country

fulfilled a number of obligations, promoting and developing international cooperation in this domain.

The GRECO experts have elaborated a number of recommendations on harmonizing of legal and institutional frameworks to the European standards. Recommendations referring to the National Strategy for Preventing and Combating Corruption and Action Plan for its fulfillment for the year 2005, there were accepted within the round table carried out in November 2004 and fully implemented by the Center for Combating Economic Crimes and Corruption. Thus, in the Action Plan for the fulfillment of the Strategy for the year 2005 there were included 10 priority and complementary measures.

Recently, national authorities have received for examination recommendations of PACO Project– Moldova experts on review of competences of law enforcement institutions in enquiry and criminal prosecution of corruption offences, elaborated during the Work shop “Delimitation of competences of law enforcement bodies in prevention and counteraction of corruption”, organized within the PACO Project - Moldova ion collaboration with the Council of Europe.

We can not leave without attention and not to mention the importance of the Workshop on financing of political parties and electoral campaigns, as well as recommendations of experts of the Council of Europe elaborated on its basis. Within this workshop there were raised necessary problems for tackling during the next legislative reforms, including the financing of political parties and electoral campaigns, elucidation of efficient mechanisms for their monitoring by mass media and governmental agencies, establishment of criminal liability for bribing voters in the framework of electoral campaigns, as well as responsibility towards the people for the political activity.

Taking into account initiatives, objectives and recommendations SPAI, activities for curbing corruption at regional level harmoniously fit into the process of European integration, constituting its component part, with an extremely important aspect. Thus, signing in Brussels, on 12th May 2005 of Joint Declaration on 10

measures to curb corruption in the South Eastern Europe represents an essential step for carrying out at regional level these activities. According to the provisions of the Declaration, the Center for Combating Economic Crimes and Corruption organized a round table “Promulgation at national level of the Declarations on 10 measures to curb corruption in South Eastern Europe”, in the framework of which there were discussed opportunities for civil promulgation of the Declaration. Within the sessions there were discussed both questions referring to the opportunities of civil promulgation of the Declaration, as well as the problems of national standards of its implementation.

At the round table works participated representatives of central public authorities, law enforcement institutions, NGOs, civil organizations, members of the Monitoring Group on the process of implementation of the National Strategy for Preventing and Combating Corruption, as well as press and TV agencies.

According to the agenda the representatives of the Center, General Prosecutor’s Office, Ministry of Internal Affairs and Transparency International – Moldova presented reports on some aspects of implementation of the Declaration.

In the framework of the round table there **was elaborated the Draft Resolution on Recommendation Patterns on the implementation of the 10 measures.**

By the end of the round table there took place a press conference. Within this conference, in a special mode, there was reflected the importance of signing and implementation of the Declaration on 10 Joint Measures to Curb Corruption in the South Eastern Europe for the Republic of Moldova.

The Republic of Moldova was represented by the collaborators of the law enforcement bodies at a number of international anticorruption activities, such as:

- Seminar “International Standards for Combating Corruption” carried out in Kiev, Ukraine in the framework of realization of Action Plan from Istanbul on combating corruption;
- Anticorruption Reunion at high level “Fight with corruption in the context of improvement of business and investment climate in the South Eastern Europe”,

organized by SPAI, in May this year in Brussels. Within this Reunion there was signed joint Declaration on 10 measures to curb corruption in South Eastern Europe;

- 17th reunion of the Limited Committee on evaluation of measures for combating money laundering (Strasbourg, France), where were drawn the main directions for development and adjustment of national legislation to international standards;
- 13th Reunion of the EGMONT Group, which took place in Washington USA;
- Regional Conference “Efficient Implementation of European standards in procedures of public procurements: legislative acts and advanced practices”, organized by international bodies OSCE, SPAI and Government of the Republic Serbia and Montenegro;
- International Conference organized by the Council of Europe in Cascais, Portugal, “Combating Economic Crimes”;
- International Seminar on “Combating terrorist financing”, organized under the auspices of European Commission and Guardia di Finanza of Italy.

IV. Prospective actions with the view of prevention and combating corruption

Actions realized with the purpose of prevention and combating corruption represents an adequate solution to the existent situation, but at present these are just at an incipient stage of a difficult and long process of curbing the phenomenon of corruption in the Republic of Moldova.

In the context of prospective actions there can be mentioned the fact that, **at present is on its stage of elaboration Action Plan** for realization of the National Strategy for Prevention and Combating corruption for **the year 2006**, having examined and generalized suggestions to competent institutions.

For the end of this year there are foreseen a number of measures of great importance for the Republic of Moldova, such as:

- Carrying out of **National Conference** on the Report on the recorded progress in the implementation of the National Anticorruption Strategy and Action Plan, as well as their bringing to date;

- Organization of a **Workshop** related to the role of non government organizations in fight against corruption – aspects of collaboration;
- Organization of a **visit for European experts** with the purpose of finalizing of the Draft Action Plan for the implementation of National Anti-Corruption Strategy for the year 2006 and its eventual financing;
- Carrying out a number of seminars on techniques of prevention and investigation of corruption cases by the collaborators of law enforcement and control bodies;
- Organization of lessons with anticorruption educational aspect in local public administration.

<u>Conclusions</u>

- ❖ Fight against corruption is not an objective in itself, does not represent a simple crusade for straitening the evils which persist in the Moldovan society. The effort for prevention of corruption represents a part of a larger goal – a functional rule of law, respect of human rights and democracy and of an efficient governing system;
- ❖ **The corruption phenomena can never be eliminated** by powerful, aggressive and biocratic actions. **The diminish of corruption involves** political wish, institutional ability, credibility, responsibility, independence of the justice, public trust, professionalism of bodies endowed with functions of prevention and combating this phenomenon, transparency of activities of public institutions, the continuous education of the society. More over, the efforts **can not be diminished** once the corruption was identified and controlled – the fight against corruption is a permanent subject.
- ❖ In fight against corruption the **judiciary system** plays a crucial role. A fairly and responsible justice represents a **key of any policy or anticorruption plan**.
- ❖ An important step in prevention corruption constitutes the experience of the Center for Combating Economic Crimes and Corruption in domain of assessment and testing of integrity and corruption resistance.

❖ Strengthening and functioning of the Center as a specialized institution in fight against corruption and a solid criminal law background, economical, financial and commercial culture will lead to curbing corruption, including on high level.

Center for Combating Economic Crimes and Corruption