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# Local and regional democracy in the Republic of Moldova

Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee)

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### Summary

This document presents the rapporteurs' conclusions on their visit to the Republic of Moldova from 13 to 15 June 2018, and takes into account previous monitoring, post-monitoring and fact-finding visits organised in the Republic of Moldova since it ratified the European Charter of Local Self-Government in 1997.

The report describes a quite negative situation, in terms of local and regional self-government, due to some cases of non-compliance with the Charter. The rapporteurs highlight, among other things, a clear trend towards recentralisation, the lack of financial and human resources of local authorities, the lack of effective consultation and the absence of efficient political and institutional dialogue between the central government and local authorities. They also express concerns about the practice of bringing criminal prosecutions against local representatives, which creates pressure on the latter who may also be dismissed through a local recall referendum.

The rapporteurs recommend in particular that the Moldovan authorities establish an adequate legal framework to review and clarify the system of local competences, strengthen the managerial and budgetary capacity of local authorities and restore an appropriate consultation process and political dialogue. They also call on national authorities to find an accurate balance between the fight against corruption and the requirements of local democracy, so that the bringing of criminal charges against local elected representatives does not disrupt local political life, and to refrain from exercising any type of pressure against local elected representatives.

1 L: Chamber of Local Authorities / R: Chamber of Regions  
EPP/CCE: European People's Party Group in the Congress  
SOC: Socialist Group  
ILDG: Independent Liberal and Democratic Group  
ECR: European Conservatives and Reformists Group  
NR: Members not belonging to a political group of the Congress.

## **RECOMMENDATION 436 (2019)<sup>2</sup>**

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

*a.* Article 2, paragraph 1.b, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

*b.* Article 2, paragraph 3, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that “The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

*c.* Chapter XVII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;

*d.* Guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;

*e.* Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life, adopted on 21 March 2018;

*f.* Congress Resolution 420 (2017) on “Local democracy in the Republic of Moldova: clarification of the conditions surrounding the suspension of the mayor of Chişinău” and Recommendation 411 (2018) on “the situation of local elected representatives in the Republic of Moldova”

*g.* The appended explanatory memorandum on local and regional democracy in the Republic of Moldova.

2. The Congress points out that:

*a.* The Republic of Moldova acceded to the Council of Europe on 13 July 1995. It signed the European Charter of Local Self-Government (ETS No. 122, “the Charter”) on 2 May 1996 and ratified it on 2 October 1997 in full. The Charter came into force in respect of the Republic of Moldova on 1 February 1998;

*b.* The Republic of Moldova has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207);

*c.* The Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (hereinafter referred to as Monitoring Committee) decided to examine the situation of local and regional democracy in the Republic of Moldova. It instructed the co-rapporteurs on local and regional democracy Gunn Marit HELGESEN (Norway, R, EPP/CCE) and Marc COOLS (Belgium, L, ILDG), with the task of preparing and submitting to the Congress a report on local and regional democracy in the Republic of Moldova. The delegation was assisted by Prof. Angel MORENO MOLINA, Chair of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

*d.* The monitoring visit took place from 12 to 15 of June 2018. During the visit, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the visit is appended to this document;

*e.* The co-rapporteurs wish to thank the Permanent Representation of the Republic of Moldova to the Council of Europe and all those whom they met during the visit.

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<sup>2</sup> Debated and adopted by the Congress on 4 April 2019, 3rd sitting (see Document CG36(2019)15, explanatory memorandum), corapporteurs: Marc COOLS, Belgium (L, ILDG) and Gunn Marit HELGESEN, Norway (R, EPP/CCE).

3. The Congress notes with satisfaction that in the Republic of Moldova:

*a.* The principle of local self-government is explicitly recognised in the Constitution and in relevant legislation;

*b.* efforts have been made towards the full ratification of the Charter as well as a comprehensive change of the domestic legal order aimed at the inception of an autonomous local level of government;

*c.* the Charter is considered as a binding and operational set of rules, and the case law of the Constitutional Court ensures its applicability. Moreover, since 2016 every local authority has had the right to litigate in the Constitutional Court to protect local autonomy;

*d.* the present arrangements for the Autonomous Territorial Unit (ATU) of Gagauzia represent a workable political compromise between Chişinău and Comrat that is working well in general terms despite some points of tension and reconciles the unitary nature of the country with the aspirations for autonomy, devolution and self-determination of the Gagauzian people.

4. The Congress expresses its concerns on the following issues:

*a.* The National Strategy of Decentralisation, and the Roadmap for implementation of Recommendation 322 (2012) co-signed by the Congress of the Council of Europe and the Government of the Republic of Moldova, has been implemented only to a minor extent and the level of local autonomy seems to be eroded by a trend towards re-centralisation; furthermore Congress Recommendations 179 (2005), 322 (2012) and 411 (2018) have not been fully implemented;

*b.* Local authorities' financial autonomy is very limited and their finances are extremely poor both in terms of the proportion of own revenues in local budgets and of the share of local spending in total public sector expenditure. Local authorities clearly depend on State transfers and subsidies;

*c.* The local fiscal system is very weak. The lack of appropriate delimitation of municipal land from private or state property makes it impossible to evaluate the land units for tax purposes and causes a loss of potential local revenues;

*d.* In many cases, the law attributes new competences to local authorities without providing for new and adequate financial resources;

*e.* Local authorities do not enjoy full discretion to exercise their actions with regard to any matter which is neither excluded from their competences nor assigned to any other authority;

*f.* The lack of precision of the grounds to activate the mechanism of recall referendum deteriorates the conditions of office of local elected representatives and entails a serious dysfunction of local democracy as mayors work under the permanent threat of a revocation referendum;

*g.* Local authorities are not autonomous in the management of their human resources; they cannot recruit high-quality staff and provide for adequate training opportunities, salaries or career prospects;

*h.* The remuneration of mayors is far from being decent or sufficient which deters young and qualified people from engaging in local politics;

*i.* The State intervenes in local affairs through a supervision of local authorities which seems to be very invasive, frequent and much more discretionary than the law would normally allow for;

*j.* There are no fruitful and transparent consultation mechanisms no dialogue between the central government and the local authorities either on financial issues or on any other matter which is of interest to the latter;

*k.* The situation with the position of the Mayor of Chişinău is unsatisfactory: since May 2017 the capital city has been run by acting mayors and the mayoral elections carried out on 3 June 2018 have been declared null on unclear and controversial grounds, despite an overall positive assessment of the said elections by international observers. The elected candidate has thus been prevented from starting his mandate;

*l.* The political context for the exercise of mayoral functions is negatively affected by the intensive practice of bringing criminal prosecutions against mayors and other local representatives (*dossar penale*). Some of these criminal charges seem to be brought for unreasonable or insignificant reasons, which sometimes are connected with the lack of resources for local authorities to discharge their competences.

5. In light of the above, the Congress requests that the Committee of Ministers invite the authorities of the Republic of Moldova to:

*a.* get back on the path to decentralisation through appropriate and full implementation of all previous Congress recommendations: 179 (2005), 322 (2012) and 411 (2018) as well as through the devolution of competences to the local level and speed up the process of meeting the objectives approved in the National Strategy of Decentralisation and other relevant policies;

*b.* allocate sufficient financial resources to local authorities, in line with the principle that the resources should match the functions;

*c.* increase fiscal capacity of local authorities by enabling them to establish local taxes and to determine their rate and by clarifying the delimitation of municipal lands to allow their re-evaluation for tax purposes;

*d.* revise and clarify the system of local competences, in order, *inter alia*, to avoid situations of overlap between local and central competences, and to ensure concomitant finances to local authorities;

*e.* allow local authorities to have more discretion in adapting the exercise of their tasks to local conditions;

*f.* adopt the necessary legal and regulatory arrangements to avoid the possible distorting consequences of the application of local recall referendums in local political life; and in the meantime, revise the legal provisions regulating the grounds for calling a local recall referendum (Article 177.2 of the Electoral Code), in order to provide for more legal certainty and to reduce the scope of discretionary decisions in triggering such popular consultations;

*g.* increase the managerial capacity of local authorities, by giving them more freedom and flexibility in the management of their human resources, so that the local authorities could offer training opportunities and adapt and upgrade the remunerations of their own staff members, as well as their career prospects;

*h.* raise the wages of mayors and district council presidents in order to offer a set of remunerations which are in proportion with the importance of their responsibilities;

*i.* make sure that the supervision over the acts of local authorities is proportional to the importance of the interests that it is intended to protect and is limited to controls of legality and refrain from the expediency controls over the local authorities' actions in the field of their own competences;

*j.* reinstate a fair consultation process with local authorities and political dialogue, in order to come to an agreement on the planned measures which may affect the interests of local authorities;

*k.* remedy in the shortest possible time the situation of the governance of the capital city of Chişinău in order to ensure the stability of the mayoral office in between the local elections and prevent such cases where non-elected acting mayors are appointed;

*l.* find a more appropriate balance between the fight against corruption and the requirements of local democracy, so that the bringing of criminal charges against local elected representatives does not disrupt local political life, and refrain from exercising any type of pressure against local elected representatives;

*m.* consider signing and ratifying the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) in the near future.

## EXPLANATORY MEMORANDUM

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## 1. INTRODUCTION: AIM AND SCOPE OF THE VISIT, TERMS OF REFERENCE

1. Pursuant to Article 2, paragraph 3 of Statutory Resolution (2015) 9 of the Council of Europe Committee of Ministers, the Congress of Local and Regional Authorities (hereinafter referred to as “the Congress”) regularly prepares reports on the state of local and regional democracy in all Council of Europe member states.

2. The Republic of Moldova is a Party to the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”). Moldova signed the Charter on 2 May 1996, and ratified it on 2 October 1997. The Charter entered into force in Moldova on 1 February 1998. When ratifying the Charter, Moldova did not formulate declarations to any of the articles (on the ground of Article 12, paragraph 2 of the Charter). Moldova has thus been legally bound by all the articles of the Charter since 1998.

3. In the field of local and regional democracy, Moldova has also signed and ratified the following Council of Europe treaties and protocols:

- the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No.106): signed on 4 May 1998 and ratified on 30 November 1999, entry into force for Moldova on 1 February 2000;
- the additional protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, of 9 November 1995 (ETS No.159): signed and ratified on 27 June 2001, entry into force for Moldova on 28 September 2001;
- Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation, of 5 May 1998 (ETS No. 169): signed and ratified on 27 June 2001 and entered into force for Moldova on 28 September 2001.

4. However, the Republic of Moldova has not signed yet the Council of Europe’s conventions that have a connection with local and regional government, such as the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, of 16 November 2009 (ETS No. 207) and Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings, of 16 November 2009 (ETS No. 206).

5. The Congress adopted a decision to draft a report on local democracy in the Republic of Moldova. For this purpose, the Monitoring Committee of the Congress appointed Marc COOLS (Belgium, ILDG) and Gunn Marit HELGESEN (Norway, EPP/CCE) as rapporteurs, and instructed them to prepare and submit this report to the Congress. A visit to Moldova was carried out by a Congress delegation, which was assisted by Professor Angel M. MORENO MOLINA (expert consultant) and by the Congress secretariat. The rapporteurs wish to express their thanks to the expert for his assistance in the preparation of this report.

6. The delegation would like to thank the Permanent Representation of the Republic of Moldova to the Council of Europe, as well as all their interlocutors for the information they provided to the delegation during the visit.

7. The visit took place from 12 to 15 June 2018. The Congress delegation met representatives of the central administration (ministries), several mayors, members of the Moldovan delegation to the Congress, members of the National Parliament, representatives of the Moldovan Congress of Local Authorities (CALM) and the Constitutional Court. The detailed programme of the visit is appended to the present report.

## 2. HISTORICAL AND POLITICAL BACKGROUND

8. The territory of the Republic of Moldova has a rich history. Between 1917 and 1918, the Moldovan Democratic Republic was established, which eventually united with Romania. In the period from 1940 to 1991, under soviet domination, the “Moldovan Soviet Socialist Republic” was established. The current Republic of Moldova was born as an independent country in 1991, when it gained independence in the aftermath of the collapse of the Soviet Union. The declaration of independence was proclaimed on 27 August 1991.

9. Moldova has a total population of roughly 3,1 million inhabitants (2017 data) and an area of 33.846 Km<sup>2</sup> (including the Transnistrian region of the Republic of Moldova). The problem of this region has been unsolved for more than 25 years now since the armed conflicts between Chişinău and Tiraspol in spring 1992 led to the political and administrative territorial division of the country. As already underlined in the 2012 Congress report, the issue of the Transnistrian region of Moldova remains a very sensitive one faced by the Republic of Moldova.

10. Currently, the country is a young and developing democracy, with a relatively low GDP (roughly 8 billion\$, 2017 data) and GDP per capita (2,240\$, IMF 2016 data) and with a presence in international organisations. Namely, the country was admitted in the United Nations on 2 March 1992 and became a member of the Council of Europe in 1995. It is also a member of major international organizations such as the OSCE, the IMF, EBRD, etc. Moldova signed an Association Agreement with the European Union in 2014.

11. The current Constitution of Moldova was adopted in 1994. The form of government of the Republic of Moldova is that of a parliamentary Republic, “a sovereign, unitary and indivisible state” according to art. 1.1. of the Moldovan Constitution. The Head of State is the President of the Republic, who is elected by popular and direct vote on a two-round electoral system (art. 79 of the Constitution). The term of the President is four years. Since 23 December 2016 the current President of the Republic of Moldova is Mr Igor DODON.

12. The legislative power of the republic resides exclusively at the state level, in the national parliament (*Parlamentul Republicii Moldova*). This is a unicameral chamber, composed of 101 representatives (Article 60 of the constitution), who are elected every four years. The last general elections were held in 2014 and produced a split result among six different parties, where no one obtained the minimum of 51 seats needed to form a majority (the majority party is the Democratic Party, with 41 MPs). The next general elections are scheduled for 24 February 2019.

13. The executive branch is composed of the prime minister, vice prime ministers, ministers and “other members as determined by the law” (Article 97 of the constitution). In 2016, Pavel Filip (Democratic Party of Moldova) was appointed Prime minister. After a massive streamlining of the central administration, there are currently nine ministries in the central executive branch, six of which are run by politicians of the Democratic Party, two by the Liberal Democratic Party and one by the Popular Party.

14. The constitution clearly defines the Republic of Moldova as a unitary and indivisible state, but the country has experienced a mild and somehow erratic process of administrative decentralisation at the local level, which is discussed below. Since the recovery of its independence in 1991, Moldova has undergone many political and territorial reforms: transition to democracy and the free market, accession to international organisations and reorganisation of its territorial administration. In terms of this reorganisation, the most important reforms were conducted in the period from 1994 to 1998 and were anchored by the Administrative Territorial Reform Act of 1998.

15. Current Moldovan politics are clearly aligned along two different and usually antagonistic views or strategies: the pro-European approach and the pro-Russian one. This sharp and even Manichean contradiction pervades almost all aspects of Moldovan political life, from national politics and central authorities, to local politics and government.



### 3. INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK

#### 3.1. Local government system (Constitutional and legislative framework, reforms)

##### Constitutional framework

16. The constitution includes specific provisions dealing with the territorial structure of the country, decentralisation and local government issues. To begin with, as noted above (Article 1.1) the constitution declares the country to be unitary and indivisible, and the value of unity is further stressed in Article 10.1: "The unity of people of the Republic of Moldova constitutes the foundation of the state. The Republic of Moldova is the common and indivisible motherland of all its citizens." This paramount and explicit importance given to unity is certainly connected to the contentious and problematic experiences of the ATU of Gagauzia and Transnistrian regions of Moldova (see below).

17. The constitution lays down specific provisions and principles for local government and local public administration. These provisions are included among others related for instance with the armed forces, in Chapter 8 of the constitution, "Public administration". From this systematic structure of the constitution, one can infer that local government and the local authorities are not truly identified as a "territorial" constituent layer of the country, but as a form of government (public administration) with a local dimension or territory. The constitution devotes several articles to local government and to local authorities. Thus, Article 109 defines the basic principle of "local public administration" (including the principles of local autonomy and decentralisation, Article 109.1, a key provision that will be commented below). Article 110 declares that the territory of the Republic of Moldova is structured in villages, towns, districts and the ATU of Gagauzia (paragraph 1). In addition, the city of Chişinău is proclaimed as the capital of the country. Specific provisions for the ATU of Gagauzia are laid down in Article 111, which explicitly declares the autonomy of that region. Article 112 deals with village and town authorities and Article 113 with the district councils (*Raioane*), a second-level local authority.

##### Legislative frame work for local government

18. The organisation, competences, finances and operational aspects of local authorities are regulated by a comprehensive set of laws and regulations. The most important piece of legislation is Law No. 436-XVI of 28 December 2006 on Local Public Administration, as amended. This statute acts as a code for the local administration system and regulates the organisation of the local authorities, their competences, their internal administration, the forms of control over their activities, their property and financial resources, and the forms of association and co-operation. Other important pieces of legislation are:

- the Law on Local Elected Officials, No. 768-XIV of 2 February 2000;
- the Law on Administrative Decentralisation, No. 435-XVI of 28 December 2006;
- the Law on Regional Development in the Republic of Moldova No. 438-XVI of 28 December 2006;
- the Law on Local Public Finances No. 397-XV of 16 October 2003;
- the Law on Administrative and Territorial Organisation of the Republic of Moldova No. 764-XV of 27 December 2001;
- the Law on Framework Status of the Villages (Communes) and Towns (Municipality) No. 436-XV of 6 November 2003.

##### The local government system

19. At present, Moldova has two layers of government: the central state administration and the local level. The only exception to this two-layer organisation is the ATU of Gagauzia, which can be considered as a genuine (and the only) region in the country. The local level is composed of 932 different types of local entities, which can be categorised into first-level and second-level entities.

20. There are 898 authorities at first level, of which there are 34 towns/cities (*orase*) and 864 villages (*sate*). Villages are small settlements, usually located in rural areas and having a farming background. Towns are bigger and may include one or more villages. Towns are area-based administrative units with industries, commercial businesses, services and cultural activities. The population mostly works in industry or services. Some towns may be designated as "municipalities" on account of their special economic, socio-cultural, scientific and administrative significance to the country. The number of municipalities has fluctuated over the years, but at present there are roughly 12, including Chişinău, Bălţi and Comrat. The average size of these administrative entities is 3 827 inhabitants for the towns, while the number is much

smaller for villages. All the first-level units of local self-government have identical competences, no matter the name, type or size. The system is therefore very symmetric or homogeneous throughout the country.

21. The second level of local entities is comprised of districts (*Raioane*), of which there are 32.

22. In the light of the information collected by the delegation during the visit, the number and size of local authorities are considered as a structural problem and are therefore unsatisfactory. National authorities and local leaders consider that there are too many local authorities, and that most of them are too small and inefficient. The number of more than 900 local authorities seems by all accounts excessive for the country. The system is too fragmented and most local authorities have limited administrative capacity to fulfil their functions. This is coupled with reduced managerial capacity and a weak financing system. While the problem is evident, the delegation did not hear about the existence of any systematic governmental plan to address this issue. No structural reorganisation of the local level is foreseen in the short term, and since the new general elections are expected by the end of 2018, it should be at least a couple of years before there is any significant development in this area. The government apparently encourages the merging of municipalities, especially among the smallest ones, but no figures or specific strategies were mentioned to the delegation.

## Reforms

23. As mentioned above, independence led to a multitude of reforms in Moldova. Among those changes, the Republic of Moldova initiated a series of reforms aimed at establishing a modern and autonomous local administration system. The decentralisation process in Moldova has gone through several stages of development and reforms. Thus, shortly after independence, the country enacted the Territorial Administration Organisation Act of 7 December 1994, the Local Public Administration Act of 7 December 1994 (No. 310-XIII) and the Local Elections Act of 14 January 1995. At that time, the country was formed by 44 districts and by some 900 local authorities divided into “towns” and “villages”. Some towns could be designated as municipalities on account of their special economic, socio-cultural, scientific and administrative significance.

24. Substantive reforms were enacted in 1998 and 2001, basically by the reduction of the number of districts from 44 to 9, therefore producing larger territorial units. In addition, the number of municipalities was increased to include the following: Chişinău, Bălţi, Bender, Cahul, Căuşeni, Comrat, Edineţ, Hînceşti, Orhei Soroca, Tiraspol and Ungheni.

25. In recent years, the national authorities have approved several strategic policy documents identifying priorities and the pathways to accomplish their goals for public administration in general and local government in particular. Specific mention should be made of the National Decentralisation Strategy and the Action Plan for 2012-2015 extended till 2018; both documents were approved in 2012. However, the central government and the national association of local authorities have contradictory views on the degree of completion and achievement of those policy documents.

### 3.2. The status of the capital city

26. Chişinău has traditionally been the most important Moldovan city, from a political, economic and social perspective. It has a surface area of 123 km<sup>2</sup> and a population of 532 513 inhabitants (662 836 including the population of nearby communities, 2014 census data). This means that 21% of the Moldovan population lives in the capital. Chişinău, in addition, has the status of municipality. Article 14 of the constitution provides that “the capital of the Republic of Moldova is the city of Chişinău” and Article 110 states that “the status of the capital of the Republic of Moldova, the city of Chişinău, is regulated by organic law”. In fact, Chişinău has a special status and a special law regulating it (the new law was adopted in 2016 replacing an outdated one): the Law No. 136 on the Status of Chişinău Municipality of 17 June 2016.

27. In terms of administrative organisation, Chişinău is subdivided into 5 sectors. Besides the city itself, the municipality comprises 34 other suburban localities: 6 towns and 12 communes. The municipality in its totality elects a mayor (*primar general*) and a local council, which appoints five *pretors*, one for each sector. Each sector encompasses a part of the city and several suburbs. The delegation did not hear any significant complaints about the status of the capital city, from a legal point of view. The main complaint heard by the rapporteurs about the current situation had to do with financing. However, in recent years Chişinău has been the centre of much media and political attention regarding the mayor’s office. This issue will be developed below (point 6).

### 3.3. *The legal status of the European Charter of Local Self-Government*

28. As noted above, the Republic of Moldova ratified the Charter in full and without restrictions on 2 October 1997. In addition, Article 8 of the constitution provides that “the Republic of Moldova commits to observe the Charter of the United Nations and the treaties to which it is a party”. Beyond this statement, the real and effective status of the Charter in Moldova, like in any other country, depends on a set of variables such as the national legal tradition, the political willingness to apply and implement the treaty, and the national understanding of the legal force of the Charter in the domestic forum. From this perspective, the case law of the Constitutional Court of the Republic of Moldova is of paramount importance.

29. In this sense, the Constitutional Court has declared that the unanimously recognised principles and provisions of international law (among them, the *pacta sunt servanda* principle), found in the ratified international treaties joined by the Republic of Moldova are part of the domestic legal framework (ruling No. 55/1999). Derived from that basis, and given that the National Parliament of Moldova ratified the Charter by Decision No. 1253-XIII of 16 July 1997, the provisions of the Charter are considered to be an integral part of the legal system of Moldova. Moreover, the Constitutional Court has had the opportunity to issue a handful of rulings where the nature, effectiveness and legal power of the Charter have been analysed. From this case law, the Constitutional Court has elaborated a concept of local autonomy, where the Charter has played a fundamental role. Furthermore, as will be considered below (point 4.10) since 2016 local authorities have had the ability to apply to the court, thanks to an amendment of Article 25 of the Law on the Constitutional Court of Moldova.

### 3.4. *Previous Congress reports and recommendations*

30. The Congress has been following the developments in Moldova since 1998. Just to mention the most recent monitoring exercises, in 2005 the situation of local democracy in Moldova was the object of a monitoring visit that resulted in Recommendation 179 (2005) on local democracy in Moldova. In September and November 2011, other monitoring visits were carried out in the country. This led to the adoption by the Congress of Recommendation 322 (2012) on local and regional democracy in the Republic of Moldova, on 22 March 2012. In this monitoring exercise, the Congress noted with satisfaction “the progress made in the Republic of Moldova since the Recommendation 179 (2005), in particular the measures launched by parliament in the form of an action plan in response to all of the Council of Europe recommendations”.

31. However, since then, the overall situation of local democracy in the Republic of Moldova has unfortunately become an almost recurrent point of attention for the Congress, due, among other things, to several complaints forwarded by both the national Congress of Local Authorities (CALM, *Congresul Autoritatilor Local din Moldova*) and by individual mayors or local elected representatives. On 30 and 31 August 2017, a fact-finding mission of the Congress was carried out in Chişinău in order to learn first-hand about the personal situation of Dorin CHIRTOACĂ, Vice-President of the Congress of the Council of Europe and Mayor (*Primar general*) of the city of Chişinău. He was suspended from office and has been subject to house arrest since May 2017, as a consequence of a criminal investigation opened against him. This fact-finding mission resulted in the adoption of Congress report CG33(2017)23 final, of 19 October 2017, “Local democracy in the Republic of Moldova: clarification of the conditions surrounding the suspension of the Mayor of Chişinău”, in which several violations of the Charter were noted, and the adoption of Congress Resolution 420(2017) on local democracy in the Republic of Moldova.<sup>3</sup>

32. Furthermore, on 13 December 2017, the second part of the fact-finding mission in Chişinău was carried out. The purpose of the visit was to get more updated and thorough information on the personal situation of Mr CHIRTOACĂ and to investigate serious claims of deterioration and degradation of local democracy in Moldova, as formulated by the CALM. As a result of this mission, the Congress adopted Recommendation 411(2018) on 27 March 2018. This recommendation highlighted that “the situation of local democracy has substantially deteriorated in Moldova since the last Congress monitoring report (2012) and the way the local recall referendum was carried out, targeting the Mayor of Chişinău entailed the dysfunction of local governance in the capital city and more broadly affected the functioning of local democracy”. The co-rapporteurs expressed their concern regarding the lack of a clear legal basis on the suspension of a local elected official and the inadequate consultation with the CALM. They also found that the situation in Moldova was not in compliance with Articles 8.3 and 3.2 of the Charter on the freely elected members of councils and assemblies. The Congress recommended the Republic of Moldova “to examine the Court proceedings against local elected representatives and to revise the Moldovan legislation, and

3. Debated and adopted by the Congress on 19 October 2017.

notably the Electoral Code, to ensure that local elected representatives manage their municipalities freely and are not exposed to judicial harassment.” According to the co-rapporteurs, the anti-corruption fight had been used as a ground for a large number of criminal prosecutions against local officials.

#### **4. HONOURING OF OBLIGATIONS AND COMMITMENTS: ANALYSIS OF THE SITUATION OF LOCAL DEMOCRACY ON THE BASIS OF THE CHARTER (ARTICLE BY ARTICLE)**

##### **4.1. Article 2: Foundation of local self-government (analysis and conclusion)**

###### **Article 2 – Constitutional and legal foundation for local self-government**

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

33. In the Republic of Moldova, the principle of local self-government is explicitly recognised and established in the constitution and in regular legislation. For example, Article 109.1 of the constitution provides that “public administration within the administrative territorial units shall be based on the principles of local autonomy, decentralisation of public services”. The second paragraph of this article even provides a wide definition of the extent of local autonomy: “The concept of autonomy shall encompass both the organisation and functioning of the local public administration, as well as the management of the communities represented by that administration.” The general legislation on local government also establishes and recognises the principle of autonomy, with explicit references to the Charter. Thus, Article 3 of the Law on Local Public Administration enumerates the “basic principles of local public administration” and provides that: “The public administration in administrative and territorial units shall rely on principles of local autonomy, decentralisation...” (paragraph1). Finally, Article 7 provides that: “In carrying out their competences, the authorities of local public administration enjoy autonomy, enshrined in and safeguarded by the Constitution of Moldova, the European Charter of Local Autonomy and by other treaties Moldova is a party to.” This express reference to the Charter in domestic legislation constitutes a recognition of the principle of local self-government.

34. The Constitutional Court has systematically underlined and stressed the importance of local autonomy and provided a clear definition. Thus, in its ruling No. 71/1999 the court stated that “local autonomy presumes the right and effective capacity of local authorities to manage and solve, under the law, under their own responsibility and in favour of the local population, an important part of public affairs”, a definition that strongly resembles that provided by Article 2 of the Charter. Furthermore, in its ruling No. 14/2004 (on co-ordination of local public administration activity), the court went on to declare that “the principle of local autonomy is one of the fundamental principles of any democratic system. It governs the local public administration and the work of its authorities. This constitutional principle gives local administrative units the possibility of self-government at local level, to the extent there is no interference with the autonomy of other local communities and with general interests of the nation.” Finally, the Law on Local Public Administration also recognises and establishes the principle of local autonomy.

35. In the light of the above, it may be concluded that Article 2 of the Charter is fully respected in the Republic of Moldova.

##### **4.2. Article 3: The concept of local self-government (analysis paragraph by paragraph)**

###### **Article 3 – Concept of local self-government**

- 1 Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
- 2 This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

#### **4.2.1. Article 3.1 (analysis and conclusion)**

36. The analysis of this article deserves a nuanced assessment in the case of Moldova. On the one hand, the rapporteurs are convinced that local bodies (councils and mayors) are for the most part free and autonomous in adopting decisions, plans and budgets at local level. In this sense, they heard unequivocal testimony that, in general, local rulers feel free to take decisions, in their day-to-day activities, and that there is room for autonomy. The rapporteurs are of the opinion that, for the most part, Moldovan local authorities are “autonomous” in the sense that they can take decisions freely.

37. However, and for the sake of this provision of the Charter, the main question is whether, in the present situation, Moldovan local authorities regulate and manage a “substantial share of public affairs”, in the light of the most common standards across Europe. This share may be substantial considering the political and economic situation of the country, but certainly not when compared to the most general standards across Europe. The rapporteurs consider that in the Republic of Moldova the substantial scope of local autonomy is too limited. This assessment is based on different elements, that will be developed further below, but which can be enumerated here: *a.* the relatively low level of local competences; *b.* the total dependency on financial transfers and subsidies from the state; *c.* the *de facto* incapability of framing and implementing real public policies in the interest of the local residents *d.* the lack of human resources; and *e.* the small amounts of the local budgets and the low level of local expenditure in the context of the general public sector expenditure. In this sense, Moldovan indices and figures are below the average figures in Europe.

38. In the light of the above, it may be concluded that Article 3.1 of the Charter is respected in the Republic of Moldova, but there is room for substantial improvement.

#### **4.2.2. Article 3.2 (analysis and conclusion)**

39. The structure of Moldovan local authorities is similar to other European countries: there is a council and a mayor, elected through different electoral processes. Elections are held every four years at national level, and the last local elections were held in June 2015. Elections are regulated by the constitution and by the Electoral Code. Every person who is a Moldovan citizen, has reached the age of 18 and has been registered on the voters register has the right to vote in local elections. Moldovan local elections have been subject to observation by the Congress<sup>4</sup> and other international organisations and bodies. The general appraisal was that they were fair and regular.

40. In the local authorities of the first level (villages/towns) the representative body is the council (48 towns with city councils, and 850 communes with local councils) composed of “councillors”, whose number is proportional to the number of local residents. The council is the body for debate and decision making; it adopts the most important political decisions: the local budget, the local internal by-laws, the local master plan, etc. Its members are elected by the citizens of the municipalities, through a process of secret, general and direct ballot.

41. The mayor (*primar*) is also elected directly by the local residents in a specific electoral process, different from that of the council but which also takes place every four years. The elections for mayors are based on a two-round system, where if no candidate obtains 50% of the vote, a second round is organised among the two candidates that obtained the most ballots in the first round. Once the elections have taken place, the Central Electoral Commission must validate the results. It is only after this validation that the elected mayor can become the effective mayor and take the oath of office. The mayor is the top executive authority of the town/village/city/municipality and has a clear political leadership capacity and executive functions: the awarding of contracts, the execution of laws and regulations, the management of staff, etc.

42. In the case of the second-level local authorities (districts or *Raioane*) there is a council and a president. The council is also elected by means of a universal, equal and direct suffrage by secret ballot for a term of four years. The president of the *Raion*, however, is elected for a term of four years, and is the executive head of the *Raion*.

43. Apart from the formal bodies for decision making, Moldovan legislation provides for other forms of citizen participation, such as local referendums. The most controversial form of local referendum is the one that may be organised to recall or dismiss the mayor of the city/village/municipality (Article 177 of the Electoral Code). The Congress and the European Commission for Democracy through Law (Venice

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4. For instance, the local elections held in Moldova on 25 May and 8 June 2003.

Commission) have already analysed this peculiar feature of the Moldovan system (see the explanatory memorandum to Recommendation 411 (2018), drafted after the fact-finding mission carried out in December 2017 and further comments will be made, below, under point 6).

44. In the light of the above, the delegation draws the conclusion that the provisions of Article 3.2 of the Charter are respected in the Republic of Moldova.

#### **4.3. Article 4: Scope of local self-government (analysis paragraph by paragraph)**

##### **Article 4 – Scope of local self-government**

- 1 The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
- 2 Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
- 3 Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
- 4 Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
- 5 Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
- 6 Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

##### **4.3.1. Article 4.1 (analysis and conclusion)**

45. The competences and responsibilities of Moldovan local authorities are not prescribed by the constitution, but they are identified in statutes, namely by the Law No. 436-XVI on Local Public Administration, the Law No. 435-XVI on Administrative Decentralisation and the Law on Public Finance. In addition, the sectoral legislation also stipulates responsibilities for local authorities. According to those laws, the main responsibilities for first-level local authorities are:

- socio-economic development;
- territorial and urban development;
- construction and maintenance of roads, streets, local bridges and traffic management;
- maintenance and operation of water supply systems, sewerage, water treatment, sanitation and domestic waste;
- social housing; social assistance to the population, protection of children;
- local public transportation; bus and train stations;
- pre-school education;
- public cultural institutions; maintenance of libraries and museums;
- sports facilities and sports schools;
- markets and other public places; protection of consumer rights;
- registration and maintenance of households; management of local property assets;
- fire departments;
- maintenance of parks and green spaces; environmental protection;
- management of land;
- maintenance of cemeteries;
- green areas;
- waste management.

46. The competences of the second-level local authorities (*Raioane*) include:

- management of public property;
- construction of roads of raional interest;
- regional public transport;
- spatial planning;

- economic development support;
- local gas and heat distribution;
- maintenance of education buildings;
- cultural, tourism and sport management;
- social assistance;
- co-ordination of the activities of the local councils in order to provide public services at district level;
- management and maintenance of systems and infrastructure providing services to different towns and villages.

47. In addition to these clearly defined competences, local authorities may receive “delegated” tasks from central authorities and legislation. Moldovan local authorities also have regulatory powers, since they can approve local binding regulations imposing duties, conditions and obligations on the local residents.

48. Despite this classification of competences, the delegation heard several complaints from local leaders that local competences are not clearly delimited, and that there are many cases of overlapping between the responsibilities of the different levels of local authorities, or with those of the state. It seems that there is also an overlapping between the competences of the *Raioane* and that of the cities. This seems to be a structural problem in the Moldovan system of local competences, as it was underlined by Recommendation 322 (2012), point (5.f). Apparently, little or no progress has been achieved in this field.

49. In the light of the above, Article 4.1 of the Charter is complied with in the Republic of Moldova.

#### **4.3.2. Article 4.2 (analysis and conclusion)**

50. According to the information collected by the delegation, Moldovan local authorities do not enjoy full discretion to exercise their initiative “with regard to any matter which is not excluded from their competence nor assigned to any other authority”. Local authorities are supposed to act strictly within the domains and spheres where the law has attributed competences to them. Furthermore, the lack of operational capacity of most Moldovan local authorities prevents them from exercising new or innovative actions outside the circle of competences identified in the law.

51. In the light of the above, the rapporteurs consider that the Republic of Moldova does not comply with Article 4.2 of the Charter.

#### **4.3.3. Article 4.3 (analysis and conclusion)**

52. This provision embodies the so-called principle of subsidiarity, according to which, “public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.” This also embodies a call for decentralisation, something which is especially needed in a country coming from the soviet system where over-centralisation was the rule. In this sense, decentralisation is established in the constitution as a founding principle of local government (Article 109) and, in regular legislation, for there is a specific law on decentralisation: Law 435-XVI of 28 December 2006 on Administrative Decentralisation.

53. However, the rapporteurs are not convinced that the principle of subsidiarity is respected in Moldova and that it has inspired a real devolution strategy. In fact, the delegation heard and read many complaints from local leaders and representatives that the National Decentralisation Strategy has not been implemented, or only to a minor extent; that most elements of the roadmap have not been implemented; and that the government has extended the deadlines of the public administration reform.<sup>5</sup> In recent years, it appears that there have not been any further transfers of competences and powers to the local authorities, and devolution at local level has been halted. What is more, the delegation heard complaints that the political party in power is favouring a clear move towards re-centralisation. The central government, for its part, provided a different view on the matter. Governmental officials claimed that the government is about to make reforms and changes towards further decentralisation, but they did not provide details or a realistic work plan.

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5. See CALM, “Situatia democratiei local si gradului de implementare a documentelor de politici in domeniul descentralizarii din Republica Moldova”, 2017.

54. In the light of the above, the rapporteurs conclude that the Republic of Moldova does not fully comply with Article 4.3 of the Charter.

#### **4.3.4. Article 4.4 (analysis and conclusion)**

55. Under the law, the powers granted to local authorities are full and exclusive in the sense of Article 4.4 of the Charter, and the delegation did not hear specific complaints on this issue.

56. Consequently, the delegation believes that the Republic of Moldova complies with Article 4.4 of the Charter.

#### **4.3.5. Article 4.5 (analysis and conclusion)**

57. Under Article 4.5 of the Charter, “where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions”. As noted above, Moldovan local authorities may receive delegated powers by the central authorities on the basis of the law (Law no.436-XVI of 28.12.2006 and Law no.435-XVI of 28.12.2006). However, the delegation heard many complaints from local elected representatives that when this happens, they are not allowed discretion in adapting their exercise to local conditions. The discharge of these competences must be implemented strictly within the guidelines and directives issued by the central government.

58. In the light of the above, the rapporteurs are of the opinion that the Republic of Moldova does not comply with Article 4.5 of the Charter.

#### **4.3.6. Article 4.6 (analysis and conclusion)**

59. This provision of the Charter deals with consultation and participation of local authorities in decision making. On the one hand, Moldovan legislation provides for the obligation to consult the local authorities and their associations: *inter alia*, Article 3 of Law No. 435 on Administrative Decentralisation; and Article 6 of Law No. 436 on Local Public Administration.

60. However, the overall impression of the delegation is that Moldovan local authorities are not regularly consulted in the adoption of legislation that affect their interests, and that they do not regularly participate in the decision making of state institutions on matters concerning them. This situation was one of the aspects analysed during the second fact-finding mission conducted by the Congress in the country in December 2017. On that occasion, the local politicians told the rapporteurs that the CALM is systematically excluded from governmental talks and negotiations in the field of local reforms. For instance, they claimed that the strategy on the reform of public administration was approved by a commission where there was not even one representative of the CALM.

61. During this monitoring visit, the local elected representatives met by the delegation insisted on the same points, although they conceded that there had recently been some minor changes. For instance, the government decided to organise some meetings, and the “parity commission” was not dismantled, as had been announced by the government. A “working group” to discuss further strategies and decentralisation initiatives was also anticipated. However, these slight changes are qualified as merely “political signs” by the CALM, and they do not constitute a true systematic change. In this respect, the local representatives (CALM and local elected representatives) that spoke with the delegation made two substantive claims:

- the CALM does not influence legislation on matters affecting local interests in any way;
- consultation is not systematic, but rather selective and limited. Important issues are not discussed with local authorities. They are only consulted on minor issues and on a selective basis.<sup>6</sup>

62. For its part, the central government denied the claims formulated by the CALM and by other local elected representatives in this field. Government officials contended that a platform for the efficient communication between the government and local authorities had been created, to which the CALM was invited; that government officials hold regular meetings with mayors around the country; that the “parity commission” for decentralisation is working well; that the government holds one meeting every three weeks in different cities, in order to be closer to local authorities; that the government regularly hears and receives

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6. See CALM: “Situatia democratiei locale...” op. cit., pages 9-11.



communications and complaints from local authorities; and that the government has offered the CALM the possibility to attend the regular, weekly meetings of the government (which are broadcast in streaming) and that the CALM has refused to attend those meetings. In conclusion, the government claims that there has been a great opening of the government for dialogue with the CALM, which has refused this invitation.

63. The impression of the delegation is that, beyond the existence of legal provisions requiring the effective consultation of local authorities, the extent and effectiveness of this consultation depends on many variables, such as the political orientation of the ruling government, the personal affinities between local and central rulers, or the will of certain politicians. The tone of interterritorial dialogue, in any case, seems to be at its lowest level in years. This situation falls short of what is required by Article 4.6 of the Charter.

64. In the light of the above, the rapporteurs conclude that the Republic of Moldova does not comply with Article 4.6 of the Charter.

#### **4.4. Article 5: Protection of local authority boundaries (analysis and conclusion)**

##### **Article 5 – Protection of local authority boundaries**

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

65. As noted above, the number and size of local authorities in the Republic of Moldova is unanimously perceived as a negative: there are too many first-level local authorities, and they are too small and weak in terms of finances and administrative and managerial capacity. This situation would be the ideal context for governmental policies or plans for amalgamations and mergers of local authorities. However, whether Article 5 of the Charter is currently respected in the Republic of Moldova is somewhat difficult to determine, because in recent years there have not been substantive alterations to local authority boundaries. Therefore, this provision could hardly be applied. During the meeting with the association of *Raioane* Councils, the rapporteurs were told that the government is working on a project of merging the current *Raioane* to produce larger and more efficient units (7 or 8 districts), that the councils were involved in the discussions and that the *Raioane* bodies and the mayors were consulted regularly.

66. The previous monitoring reports of the Congress did not identify a definite problem in this respect. During this visit, the delegation did not hear any complaints from political leaders or associations on the possible non-recognition of this article in the current situation. In any case, there is no constitutional provision on the matter.

67. In conclusion, the Republic of Moldova complies with Article 5 of the Charter.

#### **4.5. Article 6: Appropriate administrative structures and resources (analysis paragraph by paragraph)**

##### **Article 6 – Appropriate administrative structures and resources for the tasks of local authorities**

- 1 Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
- 2 The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

##### **4.5.1. Article 6.1 (analysis and conclusion)**

68. As a rule, Moldovan local authorities have the power to determine their own internal administrative structures, with due respect to statutory provisions and limitations. This is usually done through decisions of the local council, on the basis of a proposal from the mayor. The mayor, as the executive head, also has moderate powers to introduce changes and adaptations in the executive apparatus of the local authority.

69. However, this observation is mainly a legal one, because in the large majority of local authorities, the administrative and human resources are so reduced and weak that in reality there is almost nothing to determine or to adapt in order to ensure “effective management”. This aspect will be developed below.

70. In conclusion, and with this caveat in mind, the delegation considers that, at least in the law, the Republic of Moldova complies with Article 6.1 of the Charter.

#### **4.5.2. Article 6.2 (analysis and conclusion)**

71. The delegation has the clear impression that the present conditions of office of local government employees do not allow Moldovan local authorities to recruit high-quality staff; and that there are neither “adequate training opportunities”, nor “remuneration and career prospects”. In reality, the delegation was impressed to hear the testimonies and data provided by local leaders and by the national local associations on the matter. In many local entities, especially in the smallest ones, the number of staff members is very low, and they are poorly paid. Many local authorities do not have lawyers, architects or auditors, as would be required by some of the responsibilities put on the shoulders of local authorities by the law. For instance, the delegation was told that only Chişinău can afford to have internal auditors, the other local authorities cannot afford them. Most Moldovan local authorities are clearly understaffed. The delegation was told by local leaders that three quarters of all local administrative units have an average of six employees, and that 24% have four or fewer staff members.

72. Concerning salaries and wages for local employees, local governments have no discretion to decide on the remuneration of their staff. Salaries cannot be determined freely by the local authority, and there is no individual or collective bargaining as the remuneration of local employees is rigidly regulated by national laws and regulations.

73. In this sense, local leaders made a double claim: first of all, salaries of local officials are very low, for instance a lawyer may be paid 100€ per month, a figure that appears to be extremely low. Another example, a local staff member of the municipality of Chişinău (clerical position) makes 100€/month, and an official may be paid 200€/month (one should remember that the city of Chişinău concentrates almost 70% of all local staff of Moldovan local authorities). This situation was qualified by some mayors as “unacceptable”. Secondly, the remuneration of the civil servants working in the central administration is much higher, which amplifies the salary gap. The example was given of the director of the state energy regulation agency, with a monthly salary of 3 000€/month.

74. There is low remuneration for local civil servants and officials, and the local authorities cannot afford better salaries for their staff. This unsatisfactory situation produces many negative results: on the one hand, this facilitates the spread of corruption. On the other hand, employees leave the local administration and local authorities have many vacancies that they cannot fill. There is also a more subtle consequence: the lack of specialised and qualified staff prevents many local authorities from fulfilling their responsibilities in an appropriate and professional way, and when they refrain from taking action or intervening in a given issue, mayors are prosecuted for prevarication by omission. An example was given of a case concerning the competences in the area of the protection of children. Under Law No. 140 of 2013, towns and villages must provide protection for children at risk and for minors who are abused or abandoned, but the local bodies do not have social workers, psychologists, etc. as needed to provide adequate protection to children. The delegation was told that in a couple of cases the mayors had been prosecuted for failure to take action in such situations. Another example of the impact of the lack of human resources in specific competences is that, under the law, the villages and towns are responsible for the inspection of buildings. However, most local authorities do not have specialised staff (for instance, architects) to discharge that function. Therefore, some local elected representatives told the delegation that in the Republic of Moldova the problem is not that local authorities want more competences, but that in reality there are some local competences that they do not want because they simply do not have the staff or the administrative capacity to discharge them. In recent years, the government has promoted new laws giving more responsibilities to local authorities, but no additional means (especially human resources) to discharge them.

75. Moreover, this lack of managerial and administrative capacity of most local authorities has been also detected and underlined by studies carried out by international organisations. A performance audit accomplished by the Court of Auditors and released in 2017 concluded that the staff of local authorities is poorly paid, that the employees frequently leave local offices and that there is a high level of turnover and unfilled vacancies.

76. Furthermore, villages and towns in Moldova are not autonomous in terms of human resources and in the management of their own staff. There is no “professional career” in the local sector in the country and working in local administration is usually unattractive for young, qualified people.

77. During the consultation procedure, the Government argued that its work agenda provides for a review of the wage system and uniformity of salaries in the budgetary sector, starting with the next budget cycle. It further claimed that the amendments made to the Law no. 355/2005 on the salary system in the budgetary sector of 26.07.2018 increased the incentive payments for civil servants dealing with a mandate obtained directly after the election, or indirectly, and contributed to the increase of their wages.

78. The rapporteurs come to the conclusion that Article 6.2 of the Charter is clearly not complied with in the Republic of Moldova.

#### **4.6. Article 7: Conditions under which responsibilities at local level are exercised (analysis paragraph by paragraph)**

##### **Article 7 Conditions under which responsibilities at local level are exercised**

- 1 The conditions of office of local elected representatives shall provide for free exercise of their functions.
- 2 They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
- 3 Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

##### **4.6.1. Article 7.1 (analysis and conclusion)**

79. The compliance with Article 7.1 of the Charter in the Republic of Moldova was twice the subject of attention by the Congress in 2017, in connection with the fact-finding missions carried out in Chişinău (see point 3.4, above). The conclusions drawn during those visits was that, on paper, Moldovan legislation does provide for conditions of office of local elected representatives guaranteeing them the free exercise of their functions (Law No. 436 on Local Public Administration and Law No. 768 of 2 February 2000 on Conditions of Office of Local Elected Representatives).

80. However, and beyond this formal compliance, the Congress rapporteurs who carried out those visits were seriously concerned about the impact of local recall referendums on the “free exercise of functions”. Under Moldovan Law (Article 177 of the Electoral Code) a local referendum can be called by the council to recall or dismiss the mayor of a city or town. The reports and explanatory memorandums produced following these fact-finding missions already analysed in depth this peculiar feature of Moldovan legislation, so there is no need to carry out another extensive explanation of what was said at that time.<sup>7</sup> In addition, and as a consequence of this monitoring visit, the delegation learned that there is specific case law of the Constitutional Court that has determined that local recall referendums are not unconstitutional, “given that under the constitution, the mayor is elected by the citizens, it is them (the local community) who are the competent subjects, under the law, to decide the revocation of the mayor” (Ruling 13/2002 on local autonomy, paragraph 7, applicant: Parliamentary faction).

81. Despite the fact that this mechanism may comply *in abstracto* with the Moldovan Constitution, the delegation understands that it contains unsatisfactory aspects which might go against the Charter, at least in the way that the mechanism is regulated in domestic legislation. The most important one is that the grounds or reasons for activating such a mechanism do not meet appropriate standards of certainty. In other words, the local recall referendums may produce a serious dysfunctioning of local democracy, for mayors work under the permanent “sword of Damocles” of a revocation referendum. In addition, the law leaves the door open to organised factions of citizens, who may want to use this mechanism in a perverse way to revoke a mayor. Finally, there are still negative outcomes and open questions in the practical application of this instrument. For instance, what happens if the local referendum is “successful” and later the suspended mayor is judged on the merits and acquitted by a court? In this case he or she would have been removed “by the people” on the basis of accusations that eventually turned out to be unfounded. In the light of the above considerations, the delegation understands that it would be advisable to revise the current legal scheme governing local recall referendums, in order to provide for more certainty and predictability of the grounds for calling those referendums; to ensure the participation of the mayor in the preceding electoral campaign, and to avoid distorting consequences of the application of this instrument in local democratic life.

7. See Congress Report CG33(2017)23 final, of 19 October 2017.

82. Another matter of concern in connection with Article 7.1 is the political and judicial context surrounding the discharge of mayoral functions. Claims have been repeatedly made by the CALM and by local representatives that there is a systematic and unfair use of the opening of criminal files (*dossar penale*) against mayors, who are later suspended from office and even subject to restrictions of liberty. The monitoring visit has confirmed the existence and seriousness of that pattern, which *de facto* weakens the “free exercise” of functions by local elected rulers (see point 6 of this report, below).

83. In conclusion, Article 7.1 is not respected in the Republic of Moldova.

#### **4.6.2. Article 7.2 (analysis and conclusion)**

84. The testimonies, data and information collected by the delegation on this point clearly show that, at present, the conditions of office for local elected representatives do not provide for appropriate financial compensation. In fact, the remuneration awarded to mayors is extremely low, which results in the economic situation of the local officials and civil servants analysed above. This has been a structural complaint made by the CALM association in recent years. The following figures were given to the delegation during their visit: the Mayor of Chişinău, the largest and most important city in the country, has a salary of 400€/month, which seems to be extremely low; a regular mayor may earn about 200€ or 300€/month. In 2015, the situation was even worse, and the salary for the mayor of a small to medium sized town was 2 800 lei (about 130€/month), but the mayors went on strike and the then Prime Minister Filat increased the salaries to 200€/month, the present average figure.

85. A president of a *Raioane* Council also receives approximately 300€/month. Many mayors have to work part time in other professional activities, such as teaching, or running their own private businesses. This prevents many mayors from discharging their duties in a professional manner. Moreover, those salaries are strictly determined and regulated by national laws and regulations, therefore there is no possibility for local councils or bodies to establish a higher or different level of remuneration for mayors or for the presidents of the *Raioane* Councils. These figures speak for themselves and they create many ancillary problems, for example the difficulty to get young and qualified people involved in local politics and the lack of professionalism in local management. In addition, this creates fertile ground for the spread of economic corruption.

86. In the light of the above, the rapporteurs conclude that Article 7.2 is violated in the Republic of Moldova.

#### **4.6.3. Article 7.3 (analysis and conclusion)**

87. The Law on Local Public Administration and the Law on the Conditions of Service of Local Representatives regulate what functions and activities are deemed to be incompatible with the holding of local elective office.

88. Consequently, Article 7.3 is respected in the Republic of Moldova.

#### **4.7. Article 8: Administrative supervision of local authorities' activities (analysis paragraph by paragraph)**

##### **Article 8 – Administrative supervision of local authorities' activities**

- 1 Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
- 2 Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
- 3 Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

##### **4.7.1. Article 8.1 (analysis and conclusion)**

89. In the Republic of Moldova, the oversight and supervision of local authorities are not regulated in the constitution, but by regular statutes and administrative regulations, that lay down the cases and the

procedures under which this supervision can take place. At least on paper, the supervision of local authorities by the state ministries and departments is limited and strictly regulated by law.

90. To begin with, it should be noted that this supervision is not carried out by the districts (*Raioane*), or by any sub-state authority, since there are no regions in the country except in the case of Gagauzia. Therefore, the control and supervision of local authorities are exclusively carried out by the state authorities. From this perspective, supervision of local authorities is carried out by different governmental bodies and authorities, and there is no central Department on Public Administration or on Local Authorities, a situation that was identified by the previous Congress monitoring reports as a weakness in the Moldovan system. In Recommendation 322 (2012), the Congress recommended that the Moldovan authorities establish such a department (point 6.b), but this recommendation has not been followed. Moreover, the structure of the central government was recently streamlined and the number of central departments was dramatically reduced, so there is no prospect that in the short or middle term a Department on Public Administration or on Local Authorities will be established in the country. According to central government officials, the fact that local government issues are handled in the State Chancellery is a better option than having a specific ministry working on the subject.

91. At present, the key bodies for the supervision of local authorities are the State Chancellery and the Ministry of Finance. The State Chancellery is the body that concentrates the most important powers in the field of local government and decentralisation and it co-ordinates all issues dealing with local governments. The State Chancellery has the power to validate the legality of the acts and decisions of the local authorities, something it does through its regional offices.

92. The Ministry of Finance also plays an important role in administrative supervision, but it is limited to financial and fiscal issues. According to Article 78 paragraph (4) letter a) of the Law no.181 of 25.07.2014 on public finances and budget-fiscal responsibility, the financial inspection shall be initiated: a) at the request of the Prime Minister; b) by the Minister of Finance, who, through the responsible administrative authority under the Ministry of Finance, plans financial inspections based on the assessed risks related to the activities of the budgetary process and the subjects mentioned. While the local authorities are free to approve their own annual budgets, they are required to send a copy of those budgets to the ministry. However, this body does not approve or amend the local budgets, it keeps them for information-gathering purposes and for the analysis of the evolution and trends of the public sector. A "financial inspectorate" of the Ministry of Finance may conduct inspections in any local authority in the country. This financial inspectorate may decide to audit any local authority according to their own discretion, plans and strategies. As a result of those inspections, the financial inspectorate may impose fines on a local authority. The prime minister may also order that such an inspection be carried out in any local authority, something that, in the political context of the country, may be used as a tool to threaten or exert undue pressure on local bodies. Ministry of Finance officials conceded that the system is not efficient and does not work correctly, and they want to revamp it.

93. The Ministry of Agriculture, Regional Development and Environment plays a minor role in this respect, and its intervention is limited to the co-ordination and implementation of development projects, infrastructure and planning. Outside the executive branch, the Court of Accounts of the Republic of Moldova plays a fundamental role in the administrative oversight of local authorities. The Court of Accounts, regulated by Article 133 of the constitution, performs an important role in the control of local accounting and public expenditure, a role that has been reinforced by recent measures adopted in the wake of the economic crisis and the fight against corruption. The Court of Accounts is an independent agency that reports to the parliament. It has the legal power to audit any body or entity in the public sector, which gives it the power to audit local entities as well. In fact, there is a special division in the Court of Accounts dealing with local governments. In carrying out its functions, the Court of Accounts performs financial audits and issues recommendations. It may also refer to the prosecutor if mismanagement or misappropriation is unveiled as a consequence of the audit.

94. The most worrying part of this system is that the Court of Accounts unfortunately has insufficient human and administrative resources to audit all the Moldovan local authorities. In fact, the Court of Accounts audits only a small number of local authorities (usually the largest ones), in a selective or "strategic" manner and following their own policies and auditing strategies. The Court of Accounts has developed its own strategic programmes for auditing at local level and so far it has focused only on "systemic" issues. This means that a large part of Moldovan local authorities (especially the small ones) are not audited on a regular basis by the Court of Accounts. The Court of Accounts has no power to impose a course of action on the local authorities that have been audited, but it can address reports and

recommendations to them (the representatives of the Court of Accounts reported that only 37% of their recommendations are followed and implemented by local authorities).

95. In many local authorities there is no system of internal control or audit mechanism (finance control, audit commission, control services, etc.), for the simple reason that, as mentioned above, the local authorities do not have the adequate staff to assume this task. Furthermore, they do not have the means to hire private sector sworn auditors to audit their accounts.

96. There are also extraordinary measures that can be adopted by state authorities in this respect. For instance, the control exercised by the public prosecutor and by criminal courts. As discussed in other parts of this report, a structural pattern in the Moldovan system of local government is the important and very frequent intervention of the prosecutors and the judiciary in the day-to-day activities of local authorities. Mayors and council members/presidents are often subject to investigation, indicted, and on this basis suspended from office by the court (or even subject to measures of restriction of freedom). This produces a fundamental disruption in the work of local authorities, although in strict terms this situation does not fall into the scope of Article 8.1.

97. In view of the above, the delegation considers that Article 8.1 is respected in the Republic of Moldova.

#### **4.7.2. Article 8.2 (analysis and conclusion) and Article 8.3 (analysis and conclusion)**

98. These two points will be considered jointly since they are strongly related. There are two key legal provisions in this field: on the one hand, Article 6.3 of the Law on Local Government establishes the principle of autonomy, legality and no subordination relationships between the central and local authorities. The controls exercised by the state must be only controls of legality, while controls of expediency can only concern delegated powers and competences. On the other hand, Article 7.2 of the Law on Administrative Decentralisation provides for the principle of no interference of central authorities in the activities of the local administrations. Beyond these legal provisions, the delegation could appreciate that the current system of interadministrative control by state ministries is a source of permanent concern or controversy on the part of local authorities. Most of the interlocutors told the rapporteurs that there are too many cases and circumstances of control, and that in many cases this is not just a control of legality. They claim that since a new act was passed in 2017 these controls have been reinforced, and that now they can consist of checks by the State Chancellery, inspections by the Financial Inspectorate of the Ministry, audits by the Court of Accounts and referrals to the public prosecutor.

99. In particular, they claim that the State Chancellery checks the legality of actions by local authorities in delegated tasks, but that they also perform in practice an assessment of the appropriateness or opportunity of the local measures when local authorities act in the field of their own competences. Furthermore, in doing so they allegedly implement a broad interpretation of the legal system, disregarding the local autonomy and the powers of the local authorities. For instance, the officers of the State Chancellery can examine the accuracy of a mayor's decision to sell or not to sell an asset; to distribute bonuses or not, etc. Urban planning and urban management are apparently an area where this control is more severe. Local representatives told the delegation that in many local authorities the State Chancellery has modified the legal status of many local properties (even public parks) changing them and converting them into state properties (which are later privatised). They claimed also that the government unilaterally marks the limits of the municipal and state land properties, where those two types of real estate public property are not delimited.

100. During the consultation procedure, the government pointed out to the revision of the control and transparency mechanisms, based on the Law no.161 of 07.07.2016 on the amendment of some legislative acts (which will enter into force on 28.10.2018). It informed the rapporteurs that a series of regulations were introduced to publicize the activity of the local public administration authorities by using the information platform (the State Register of Local Acts). It would also publicize the activity of the territorial offices of the State Chancellery, which will control the administrative acts through the same Register. The government stressed that all interested persons will be able to view any local public administration act placed in the system at any stage of verification procedure.

101. However, in the rapporteurs' view, this information does not bring anything new to the conclusions of the report.

102. Apparently the situation has not improved since the last monitoring report of 2012, where it was found that there was a lack of regulations for expediency checks carried out by the central government bodies and it was recommended that the supervision over local authorities should be reduced in order to satisfy the requirements of Article 8.3 of the Charter. The tendency of widespread administrative controls seems to have been reinforced during recent years.

103. In the light of the precedent, the rapporteurs find a violation of Article 8.2 and Article 8.3 of the Charter.

#### **4.8. Article 9: Financial resources (analysis paragraph by paragraph)**

##### **Article 9 – Financial resources of local authorities**

- 1 Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
- 2 Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
- 3 Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
- 4 The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
- 5 The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
- 6 Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
- 7 As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
- 8 For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

##### **4.8.1. Article 9.1 (analysis and conclusion), Article 9.2 (analysis and conclusion) and Article 9.4 (analysis and conclusion)**

104. These three indents of the Charter should be analysed jointly since they are interrelated and in summary they require the sufficiency of financial resources for local authorities. Before analysing these provisions, it is important to stress two important points. On the one hand, it should be underlined that the Moldovan Constitution, although it devotes several provisions to local government, does not include any paragraph or indent on the issue of the financing of local authorities. The only reference to local finances is to be found in Article 131.5, which states that "the district, town and village budgets shall be drafted, approved and carried out in accordance with law", which is basically an empty provision. The same is true for Article 132.1, which provides that, "all taxes, duties, other revenues of the state budget and of the social insurance budget, as well as of the district, town, village budgets are established under the law by the competent representative bodies". Therefore, the principles of sufficiency and commensurability of local finances, as well as the buoyancy and variation of those resources, are not recognised in the constitution. Moreover, the Constitutional Court has not issued any ruling on the issue of local financial autonomy.

105. Consequently, the regulation and structure of local financing is left totally in the hands of the legislature and of the government. In this field, the most important pieces of legislation on this matter are the Law No. 397-XV on Local Public Finance of 16 October 2003; the Tax Code of the Republic of Moldova No. 1163 of 24 April 1997, the Law No. 847-XIII on the Budget System and Budgetary Process and the Local Public Administration Act of 2006.

106. In the area of budgeting and expenditures, villages and towns are free to draft and to approve their own budgets, a process that is governed by the Public Finances Act. The local council is the competent authority to approve the budget. Local authorities are in theory autonomous in deciding their spending priorities (at least with their "own revenue"), and in principle the central government or other state authority cannot interfere with municipalities' budgetary autonomy. In this sense, state institutions are not allowed to interfere with the drafting and execution of local budgets. As noted above, once the local annual budget is

approved it must be forwarded to the Ministry of Finance, but this body does not carry out any formal approval or amendment of the budget.

107. The general situation of local finances in Moldova has recurrently been evaluated as poor by the Congress. Thus, in Recommendation 179 (2005) on local democracy in Moldova, the Congress introduced several recommendation and points in this field, and went on to note, among other things, “the very limited extent of local financial autonomy in Moldova and the almost total lack of freedom on the part of local authorities to decide on financial matters” (point 8.c.i). And in Recommendation 322 (2012), the Congress also observed several unsatisfactory aspects in this respect (point 5, c-e). The rapporteurs did not see any substantial improvement during their visit. Moreover, in a report made in 2017, the Court of Auditors of the Republic of Moldova concluded that local authorities are totally dependent on the central government.

108. In the Republic of Moldova, the main sources of local revenue are the following:

- own revenue (local taxes and fees). Local taxes will be addressed in more detail below;
- shared taxes and fees;
- special means (special funds);
- transfers (from the state budget). In the Republic of Moldova, most of the revenue of local authorities comes from transfers granted by the central government. These transfers will be analysed at point 4.8.7, below;
- borrowing. This will be address in more detail below;
- revenues from property sales, rent and privatisation; revenues from commercial activities.

109. According to figures provided for the Ministry of Finance for the last three years, the revenue structure of local authorities can be broken down as follows: in 2015, the total revenue for local budgets was 11 039 million lei, of which “own revenue” represented 981.7 million lei (8.9% of revenues); the share in state taxes was 1 901 million lei (17.2%) and the total transfers were 7 504 million lei (68% of total revenue), including “general purposes transfers” to the amount of 852.9 million lei (7.7%). In 2016, the total revenue for local budgets was 12 053 million lei, of which “own revenue” represented 1 022 million lei (8.5% of revenue); the share in state taxes was 2 272.1 million lei (18.9%) and total transfers were 8 263.7 million lei (68.6% of total revenue), including “general purposes transfers” to the amount of 1 082.6 million lei (9%). In 2017, the total revenue for local budgets was 13 461 million lei, of which “own revenue” represented 1 280.4 million lei (9.5% of revenues); the share in state taxes was 2 171.2 million lei (16.1%) and the total transfers were 9 552.5 million lei (71% of total revenue), including a “general purposes transfers” to the amount of 1 211.1 million lei (9%).

110. Two preliminary conclusions can be drawn from these figures. First, that the proportion of “own revenue” in the budgets of local authorities is very low. Second, that local authorities are primarily funded through transfers granted by the state. The major part of local revenue in Moldova is represented by intergovernmental transfers and shared taxes and none of these sources are under the control of local authorities. These preliminary findings clearly go against the requirements of Articles 9.1 and 9.3 of the Charter.

111. The most important budget expenditures of local authorities in 2015 were as follows:

- first-level local authorities: *a.* education: 37%; *b.* general purpose state services: 12%; *c.* environmental protection: 12%; *d.* transport, roads and streets: 12%; *e.* culture, arts and sports: 12%;
- second-level local authorities (*Districts-Raioane*): *a.* education: 52%; *b.* general purpose state services: 16%; *c.* social assistance: 8%; *d.* communal households: 7%. A clear picture emerges from these figures: education is the greatest expense of local authorities, but they have no power over the salaries of their employees (including teachers), since they are determined by the central government. They have little over social policies, too. Consequently, public finances are still centralised to a large extent.

112. Several indicators make it possible to assess the degree of fiscal decentralisation in the country. To begin with, the weight and importance of local budgets. In this area, the budgets of Moldovan local authorities are very low in comparison with European standards, according to experts and international organisations, and even the Ministry of Finance. For instance, the delegation was told that the total budget for expenses in the City of Chişinău is roughly €50 million, which is a small amount for such a big and important capital city. Another indicator is the share of local government expenditure in the total public



sector expenditure. According to the data provided by the Ministry of Finance, this percentage was 24.8% in 2015, 23.2% in 2016 and 24.3% in 2017. These data may seem to be positive in the European context, but it should be remembered that there are no regions in the country (except the ATU of Gagauzia), therefore, the roughly 75% of public expenditure is still made at central level.

113. The fact that the system of local financing is insufficient and unsatisfactory is not only a recurrent claim of the CALM and local representatives; but it was also admitted by government officials during the meetings that the delegation had in Chişinău. According to the Ministry of Finance, the sources of revenue are not sufficiently diverse. Local finances are hit by different structural problems, such as the lack of resources for capital investment and the low level of collection of own revenue. Most of the Moldovan local authorities are underfunded, and the vast majority does not collect own resources to cover even its operational costs.

114. Officials from the Ministry of Finance also informed the delegation that in the last couple of years the government has adopted several initiatives to improve the situation of local finances. For instance, Law No. 281 of 16 December 2016 increased the maximum tax rate for housing real estate from 0.3% to 0.4%. And Law No. 288 of 15 December 2017 granted local authorities the right to determine the degree of completion of the construction for tax purposes based on the method established by the central specialised body, and the right of local authorities to decide whether to exempt certain individuals from the tax on real estate. They added that local authorities do enjoy discretion in the use of their own resources. The prioritisation and use of the available financial resources rests exclusively with local public authorities. The existence of local entities with low financial potential is the consequence of the underdeveloped economic base (potential taxpayers), which is due mainly to the existence of too many local authorities with a small population.

115. During the visit, the Ministry of Finance conceded that the situation is unsatisfactory, but pointed out that the economic situation of the country is also bad; that there is a high rate of tax evasion and corruption, and that the taxable basis of many local authorities (especially the small and medium-sized ones, and those located in rural areas) is very limited because of the poor economic structure in the country. Consequently, changing the regulatory framework to reinforce the fiscal autonomy of local government would not make a real change, because there is not very much to be taxed at local level. Therefore, the economic situation of local authorities seems to be a vicious circle: it is closely linked with the overall economic situation of the country, and will not change until the economic situation of the country improves significantly.

116. During the consultation procedure, the government pointed out that in the context of the National Decentralization Strategy a new system of local public finances was introduced in the Republic of Moldova, which radically changed the way of financing local self-government, the budgetary relations between the national budget and local budgets of all levels. The government evaluates this new financial system as transparent, predictable and offering greater autonomy to local budgets and some incentives for local revenue growth.

117. Regarding local elected representatives' position on the matter of finances, they unanimously stated that in general terms they were highly unsatisfied with the present arrangements. First, they complain that local authorities are clearly underfunded and they depend on transfers granted by the state. For instance, only 10 towns in Moldova collect enough resources to pay the salaries of their staff. All the rest have recourse to state transfers to pay its human resources and operational expenses. Second, they complained that the current system of transfers is also unsatisfactory, for the reasons that will be stated below. Finally, in too many cases, the law attributes new competences to local authorities without providing for new and adequate financial resources.

118. Finally, concerning municipal property, Moldovan local authorities have their own property, goods and assets. Their right to own land and real estate property is fully recognised, and they are free to manage their own assets and properties. For instance, they own the local streets, roads, parks, cemeteries, administrative buildings and facilities, schools, kindergartens, culture clubs, libraries, sport facilities, etc. One of the main problems in this regard, however, is that in many places the municipal land is not delimited appropriately from private or state property. Consequently, the land units cannot be evaluated for tax purposes and the local authorities thus lose an important source of potential own resources.

119. In view of all these considerations, the rapporteurs conclude that Article 9, paragraphs 1, 2 and 4 of the Charter are violated in the Republic of Moldova.

#### **4.8.3. Article 9.3 (analysis and conclusion)**

120. First-level Moldovan local authorities can perceive local taxes and fees, while second-level authorities have no taxes of their own but can collect fees, for example for water distribution and waste-water treatment.

121. All local authorities also have a share of some state taxes (shared taxes), the most important being the personal income tax (PIT). In reality, these “shared taxes” can be categorised both as “transfers” and as “equalisation mechanisms” since the local entities have absolutely no power to regulate, manage or collect those taxes. They are the exclusive responsibility of the state, which later on redistributes all or part of the taxes collected to the local authorities.

122. As for local taxes and fees, and according to Article 6, paragraph 6, of the Tax Code No. 1163-XIII of 24 April 1997, the system of local taxes and fees includes: *a.* real estate tax; *b.* taxes on natural resources; *c.* land-use tax; *d.* fees on the organisation of auctions and lotteries on the territory of the administrative territorial unit; *e.* taxes on advertising; *f.* taxes on the application of local symbols; *g.* taxes on commercial units and/or service provision; *h.* market taxes; *i.* accommodation taxes; *j.* resort fees; *k.* taxes for the provision of passenger transport services on municipal, town and village (communal) routes; *l.* parking fees; *m.* taxes from dog owners; *n.* sanitation fees; *o.* *ad unit* fees. Several remarks should be made on this enumeration. First, that taxes and fees are regulated in the same text, without any clear distinction. Second, this enumeration does not mean that all these fees exist in all Moldovan local authorities, but only in those who have decided to create and collect them. Third, that the most important “local” tax is the real estate tax, which is in reality probably the only genuine “local” tax in Moldova. It is regulated by state law but leaves some discretion to the local authorities to set the tax rate and grant tax exemptions.

123. Regarding the discretion and the room to manoeuvre that local authorities enjoy in regulating their “own” taxes, the system can in short be presented as follows: *a.* as a general rule, the local tax rate is set by the local authority according to the characteristics of the taxation objects, without the existence of a tax ceiling. Local authorities may grant additional exemptions from paying local taxes. *b.* In the case of real estate tax, the exact quota is established annually by local councils, based on the minimum and maximum quota set in the Tax Code. Local authorities (councils) can also grant additional tax relief on real estate (tax exemptions or deferrals) under the conditions set by Article 284 of the Tax Code. According to the Ministry of Finances, the government has recently promoted several changes in the field of local taxation, the most important being the abolition of caps or limits on real estate tax. Apparently the local authorities hesitate to raise their taxes, however.

124. Different structural problems affect the system of local taxation: *a.* lack of information about taxpayers and the resulting tax evasion; *b.* non-delimitation of many local properties, whose ownership is disputed, which negatively affects the collection of real estate tax; *c.* lack of significant taxable transactions or events. Therefore, the possibility of expanding the local tax base is very limited; *d.* the fact that many local properties are not registered in the cadastre (apparently, only 20% of local assets have been registered with the Cadastre Agency). Many properties are not evaluated for tax purposes, and therefore real estate tax cannot be collected on them.

125. The Moldovan system for local taxes has been consistently assessed as weak, and the present visit highlighted the fact that the structural situation has not improved. In the light of this fact, the rapporteurs consider that the requirements of Article 9.4 of the Charter are not satisfied.

#### **4.8.5. Article 9.5 (analysis and conclusion)**

126. This provision of the Charter deals with the equalisation of local finances, “which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support”. In the Republic of Moldova, the equalisation system for local authorities operates through two mechanisms:

- on the one hand, by the share or participation that local authorities have in the PIT that is collected in their territories. Roughly one quarter of total local-government revenue comes from PIT sharing, which is a state tax. There are different shares or percentages of the overall state taxes collected that are transferred to the different local authorities according to their type (villages, communes, cities, municipalities and districts). This share ranges from 20% to 75%. In the case of villages and

cities that are centres of the *Raions*, this percentage is 20%. For the towns and cities with the status of municipality, that percentage is 75% of the PIT collected on their territory. Balti receives 45% and the Chişinău municipality 50%. Therefore, an important part of PIT is redistributed to local authorities;

- on the other hand, by general balance transfers (*de echilibrare*), which are calculated on a formula basis, distinct for local authorities of first or second level. For first-level authorities (towns, cities and villages), these transfers are calculated according to a formula that uses several indicators: the fiscal per capita income, determined according to the income obtained from PIT; the population and the area of the local entity. The allocation of transfers pays particular attention to the poorest local authorities and is carried out in inverse proportion to the fiscal capacity per inhabitant and in direct proportion to the population and area. For second-level bodies (districts-*Raioane*), these transfers are calculated according to a formula where two indicators are used: the population and the district size.

127. According to the representatives of the Ministry of Finance with whom the delegation met during the visit, the system implemented so far has focused on maintaining the financial capacity of local bodies, and is based on the principles of decentralisation, territorial cohesion (solidarity) and the ensuring local resources correspond to local competences. The new system of local public finances allegedly ensures that the vast majority of local authorities preserve their financial potential, at least at the level achieved in the old local budgeting system.

128. In light of these facts, the rapporteurs conclude that, although the system could be improved Article 9, paragraph 5, of the Charter is respected in the Republic of Moldova.

#### **4.8.6. Article 9.6 (analysis and conclusion)**

129. According to this provision of the Charter, local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them. According to the CALM and other local leaders and representatives, local authorities are not consulted by the central government on the way in which redistributed resources are to be allocated to them. Moldovan local authorities are not consulted by state bodies and institutions regarding financing. The general system for local-government consultation and participation in the decision making of state bodies has already been presented, with generally unsatisfactory conclusions (see point 4.3.6, above). Therefore, this lack of consultation may not be an exception in a very sensitive area such as financing.

130. Consequently, the rapporteurs believe that Article 9, paragraph 6, of the Charter is not respected in the Republic of Moldova.

#### **4.8.7. Article 9.7 (analysis and conclusion)**

131. As noted above, grants and transfers from state budget constitute the fundamental source of revenue for Moldovan local authorities. Basically, there are two types of transfers: the transfer for general purposes and transfers for specific purposes.

In the last four years, the figures concerning the total transfers granted by the state to the local budgets can be broken down as follows:

- in 2015, the total amount of transfers was 7 504 million lei, of which 852.9 million lei (11.4%) were general purpose transfers (*echilibrium*), and 6 651.1 million lei (88.6%) were special purpose (earmarked) transfers;
- in 2016, the total amount of transfers was 8 263.7 million lei, of which 1 082.6 million lei (13.1%) were of general purpose transfers (*echilibrium*), and 7 181.1 million lei (86.9%) were special purpose (earmarked) transfers ;
- in 2017 the total amount of transfers was 9 552.5 million lei, of which 1 211.1 million lei (12.7%) were general purpose transfers (*echilibrium*), and 8 341.4 million lei (87.3%) were special purpose (earmarked) transfers.

132. These figures seem to indicate that most of the transfers granted by the state are earmarked, or for specific purposes. In this sense, there are different special funds, from which local authorities may receive specific grants: a. the regional development fund; b. the environmental fund; c. the energy efficiency fund;

d. the special fund for construction and maintenance of roads. The *Raions* receive money from this fund, according to a number of lei per km.

The local authorities have no power of decision regarding these transfers, and the arrangements in place do not therefore meet the requirements of Article 9.7 of the Charter.

133. According to local government representatives, local authorities do not participate in decisions regarding these funds, since they are granted on an *ad hoc* basis by the line ministries according to criteria that are neither clear, stable or transparent. The CALM and several local leaders have recurrently complained that local authorities are clearly underfunded and that they depend on the transfers granted by the state. Furthermore, they have complained that the current system of transfers is also unsatisfactory, essentially for two reasons. First, most of transfers are earmarked, meaning they are granted for specific purposes (for instance, paying the salaries of local teachers). Second, when transfers are supposed to finance new investments for infrastructures, new facilities or the paving of streets or roads, the system lacks transparency and is allegedly politicised in the sense that local authorities whose mayor belongs to the ruling political party (the Democratic Party) have better chances of obtaining financing than local authorities that are run by other parties. Although the second claim cannot be formally proved by factual data, the first one sounds plausible, in the light of the figures provided by the Ministry of Finance.

134. Government officials disagreed with the contentions of the CALM. On the one hand, they stated that the share of local authorities own revenue has remained relatively stable over the years. On the other hand, they explained that the lack of discretion in the use of special-purpose transfers is set out in the law. The Local Public Finance Act defines “special-purpose transfers” as financial means allocated from the state budget, conditional upon and linked to ensuring the performance of public functions or for other special purposes. According to another norm of the act cited, these transfers can only be used for a specific, predetermined purpose and are to be returned to the state budget otherwise. However, these replies from the government do not mitigate the situation, as illustrated by the eloquent figures provided above.

135. Consequently, the rapporteurs conclude that Article 9.7 of the Charter is infringed in the Republic of Moldova.

#### **4.8.8. Article 9.8 (analysis and conclusion)**

136. This provision of the Charter states that for the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

137. Moldovan local authorities have recourse to borrowing from private or public banking institutions. The Law No. 397/2003 on Local Public Finance allows local authorities to borrow for capital purposes both domestically and abroad, as well as to grant guarantees on loans to municipal companies. However, according to Law No. 419/2006 on Public-Sector Debt and Government Guarantees, local authorities are required to obtain the prior approval of the Ministry of Finance before borrowing (loans for one year and more). Between 2016 and 2018, eight local authorities received approval from the Ministry of Finance to borrow from banking institutions and three local bodies did not.

138. If a local authority has payments overdue on existing debt, it may not contract any new debt, except for the purpose of restructuring the unpaid obligations. There is also a cap on credit operations for local authorities such as debt service, including repayment of principal and interest for existing debts (20% of annual municipal revenues). This legal amendment (adopted in 2014) is in keeping with the will of the government to keep local debt in line with international standards, and with the recommendations of the World Bank missions and EU experts. Moreover, local authorities are obliged to keep a debt registry and a guarantees registry in order to keep track of their direct and conditional obligations.

139. According to provisions of Law No. 419, the Ministry of Finance monitors the situation of public-sector debt. All public-sector entities (including local authorities) must therefore send the Ministry of Finance, on a quarterly basis, the information necessary to monitor the contracting, disbursement and repayment of public-sector debt. The Ministry of Finance then presents the government and parliament with a quarterly and an annual report on the situation of public-sector debt. Reports are published on the website of the Ministry of Finance. As of March 31 2018, the local public authorities’ debt stood at 0.23% of GDP.

140. During the visit, the delegation was told that, although local authorities have access to the national capital market within the limits of the law, they rarely ask for loans from the private sector, because interest

rates in the country are very high (between 10% and 20%), and consequently are dissuasive. At the same time, banking institutions are well aware of the financial situation of most Moldovan local authorities, and know that their cash-flow capacity and their room for manoeuvre in paying off loans is very limited. The national capital market is therefore an infrequent source of funding for local authorities in Moldova.

141. Therefore, and in the light of the country's economic situation, the rapporteurs are of the opinion that Article 9.8 is respected in the Republic of Moldova.

#### **4.9. Article 10: Local authorities' right to associate (analysis paragraph by paragraph)**

##### **Article 10 – Local authorities' right to associate**

- 1 Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
- 2 The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.
- 3 Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

##### **4.9.1. Article 10.1 (analysis and conclusion)**

142. This provision of the Charter deals with intermunicipal co-operation and provides that local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest. In the Republic of Moldova, the right of local authorities to associate among themselves and to form common platforms and structures for the joint provision of local services is fully recognised in the domestic legal system. In this sense, local governments (towns/cities) can freely form consortia and associate to provide common services. This is mostly used in the field of communal services (water supply, waste management, road maintenance, etc.). The legal basis for intermunicipal co-operation is the Law No. 436/2006 on Local Public Administration. Article 14 thereof regulates the powers of local councils and stipulates that local authorities can, within the conditions set by law, "form an association with other local public authorities, including from abroad, to conduct works, and to provide services of public interest, to promote the interest of local public authorities, as well as to co-operate with businesses and NGOs from the country and abroad to implement action and works of common interest".

143. Article 5 of Law No. 435/2006, on administrative decentralisation, also provides that local authorities can co-operate in the implementation of their competences, by setting up joint services and works. In this sense, the towns/cities usually establish joint municipal enterprises or joint stock companies, where all participating municipalities are founders.

144. While intermunicipal co-operation is indeed a reality in Moldova and there are a number of joint projects, it is not very developed in comparison with European standards. Intermunicipal co-operation appears to be facing some problems, among which stands a partisan conception of politics. The delegation was informed that in many cases mayors are not willing to co-operate with neighbouring cities if they are run by a different political party. The Ministry of Agriculture and Regional Development actively encourages local authorities to co-operate with each other and to create intermunicipal corporations. Furthermore, the model regulation on municipal companies was amended recently by the government to allow several municipalities to found joint municipal corporations.

145. Consequently, Article 10.1 of the Charter is respected in the Republic of Moldova.

##### **4.9.2. Article 10.2 (analysis and conclusion)**

146. "The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State".

147. In the Republic of Moldova, local authorities are entitled to set up associations for the protection and promotion of their common interest, and to join or withdraw from existing associations. Moldovan local authorities are also free to join international associations of local authorities. In the country there is one comprehensive association of local authorities, the *Congresul autoritatilor locale si regionale din Moldova* (CALM) which stands literally for "Congress Local and Regional Authorities of Moldova".

148. Based on the principle of voluntary membership, the CALM was founded in the 90s and its members currently include about 800 local authorities of first and second level, out of the current 898 entities. The CALM is far and above the most important national association that defends and represents the interests of local authorities. It is supposed to act as a local intermediary in dialogue with the government and lobbies in favour of local interests. Apart from its purely representative tasks, the CALM carries out different activities of common interest and provides assistance and help to local governments, such as legal and fiscal advice and technical support.

149. In addition to the CALM, other networks or co-operative schemes exist among local authorities in the country, with varying degrees of formality and relevance, such as the Association of District Councils or the Association of City Mayors, but their social and political relevance is much more limited. The delegation also held meetings with these associations and networks (see the programme of the visit in the appendix).

150. Consequently, Article 10.2 of the Charter is respected in the Republic of Moldova.

#### **4.9.3. Article 10.3 (analysis and conclusion)**

151. This provision of the Charter deals with transfrontier co-operation, and provides that local authorities shall be entitled, under such conditions as may be provided for by law, to co-operate with their counterparts in other states. The possibility for Moldovan local authorities to co-operate with their counterparts in other states is recognised in Moldovan legislation on local government. Namely, Article 14.1 of Law No. 436/2006 on Local Public Administration enables co-operation with municipalities abroad: local councils can establish co-operation projects, including cross-border ones and town twinnings with other towns abroad. In practice, there are many projects and activities involving cross-border co-operation, especially in the framework of cross-border co-operation programmes supported by the EU (Moldova, Ukraine, Romania). According to Romanian legislation, municipalities can finance joint projects with municipalities in Moldova using their local budgets. This is another way to realise for cross-border co-operation between municipalities, which is fostered by the common heritage of these two countries.

152. As noted above, the Republic of Moldova has signed and ratified the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities; the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities; and Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation. However, it has not yet signed Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECG).

153. Consequently, Article 10.3 of the Charter is also respected in the Republic of Moldova.

#### **4.10. Article 11: Legal protection of local self-government (analysis and conclusion)**

##### **Article 11 – Legal protection of local self-government**

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

154. The analysis of the legal protection of local self-government in the Republic of Moldova should consider two different aspects: regular access to ordinary courts and access to the Constitutional Court to defend the principle of local self-government. Concerning the first aspect, Moldovan local authorities do enjoy *locus standi* to go to courts in order to defend their rights, property or interests, just as any other legal person may. Therefore, towns, villages, municipalities and *Raioane* can have access to the regular courts, where they can defend their interests and rights. In this matter, the delegation did not hear any complaints from local leaders and representatives.

155. The Constitutional Court is regulated by Article 134 *et seq.* of the constitution, which describes the Constitutional Court as the “sole authority of constitutional jurisdiction in the Republic of Moldova”. Among other functions, it exercises the review of constitutionality of laws and decisions of the parliament, presidential decrees and decisions and ordinances of the government. The Moldovan Constitutional Court follows the so-called “Kelsenian” type of constitutional jurisdiction, that carries out a concentrated and abstract control of constitutionality of laws and regulations, and can ensure that the legal order contains only rules that respect the constitution.

156. At present, Moldovan local authorities are also authorised to appeal to the Constitutional Court if they think that the constitutional and legal principle of local self-government has been neglected, disregarded or violated by a piece of legislation or by a governmental regulation. This has been possible since 2016, thanks to an amendment to Article 25 of the Act governing the Constitutional Court of the Republic of Moldova (Law No. 24). Concretely, this amendment has been in force since 15 April 2016.

157. The system now allows any individual council of the administrative territorial units of first and second levels, and that of the People's Assembly of Gagauzia (*Gagauz Yeri*) to sue in the Constitutional Court on questions of local autonomy, to trigger a control of unconstitutionality by the Constitutional Court. Any such council is entitled to address the Constitutional Court as regards laws and regulations issued by the parliament or by the government even if it is not the only addressee of the legal measure in question. For this reason the legal amendment referred to above deserves a very positive assessment, especially considering that in most European countries single local entities are barred from this possibility.

158. This does not mean that prior to 2016 the Constitutional Court could not adjudicate proceedings where a violation of the principle local autonomy was at stake. In reality, the Constitutional Court has issued a handful of rulings in this manner, because individual members of parliament or parliamentary groups have always been allowed to file appeals in the Constitutional Court, a possibility that some have used to challenge pieces of legislation. The paradox is that, since the 2016 amendment, no local authority has yet used the possibility of suing in the Constitutional Court. That is, since 2016, the local authorities have filed no appeals in the Constitutional Court, and at the time of the monitoring visit no cases triggered by a local authority council were pending in the Constitutional Court. Therefore, all the case law of the Constitutional Court on local autonomy corresponds to claims triggered by plaintiffs other than local authorities, namely members of parliament. In some cases these rulings were rendered in the context of questions of unconstitutionality.

159. In the cases that were brought to the Constitutional Court, the main contention was not that the Charter had been violated, but that Article 109 or 112 of the constitution had been breached (or Article 111 if the controversy concerned the ATU of Gagauzia). It is considered that the Charter cannot be violated independently from the principle of local autonomy that is embodied in those constitutional provisions. This is connected with the issue of the value of the Charter in the Moldovan legal order, a question that was addressed at point 3.3, above. The Charter is an international treaty that has been ratified by Moldova and is an integral part of the domestic legal system. Under domestic constitutional law, the direct and invocable supremacy of international law over national legislation is only recognised in the field of human rights: for instance, in a case of contradiction, international conventions such as the European Convention on Human Rights should prevail. Thus, international treaties per se do not have supremacy over the Moldovan Constitution. International treaties have an infra-constitutional nature, but also supra-legal authority.

160. Thus, the Constitutional Court can check whether the laws and regulations governing local authorities contravene the constitution and the principle of local autonomy enshrined in it (and in the Charter, by extension), and in connection with Article 8 of the constitution, which governs the observance of international treaties. Thus the Constitutional Court has issued a number of rulings where the principle of local autonomy or that of decentralisation were at stake. The case law is not very abundant and the issues of local autonomy have been mainly included in the *obiter dicta*, rather than in the *ratio decidendi* of the rulings. With these limitations, it is worthwhile to mention the following cases and rulings:

- Ruling 19/2013 on incompatibilities of local elected officials, and 36/1998 on local autonomy: in these decisions the Constitutional Court declared that local public administration plays an important role for the development of administrative territorial units and in ensuring the workflow of public services. Consequently, they are to be seen as a basis of the constitutional system and they are safeguarded as such;
- Ruling 99/2004: the Constitutional Court elaborated on the particular features of administrative decentralisation;
- Ruling 2/2014, on budgetary autonomy (amount of local taxes);
- Rulings 36/1998, 13/2002, in which the Constitutional Court elaborates on the meaning and content of local autonomy, and the need to protect it;
- Ruling 89/2017, in which the Constitutional Court analyses one of the most controversial aspects of the current landscape of Moldovan local democracy, namely the possibility for a court to suspend a mayor who is the object of a criminal investigation open by the prosecutor (*dossar penale*). The Constitutional Court analysed the constitutionality of this suspension, carefully examined the law

concerning the suspension, and concluded that the suspension of a mayor who is subject to a criminal investigation does not violate the constitution because it is a proportionate, justified measure, which is not of a punitive character but a preventive one;

- Ruling JCCM M 13/2002 on the constitutionality of local referendums to recall a mayor. The court held that, given that under the constitution the mayor is elected by the citizens, it is for them (the local community), who are the competent subjects, by law, to decide the revocation of the mayor.

161. In the light of the precedent, the rapporteurs consider that the requirements of Article 11 of the Charter are met in the Republic of Moldova.

## **5. ANALYSIS OF THE SITUATION OF REGIONAL DEMOCRACY IN THE LIGHT OF THE REFERENCE FRAMEWORK FOR REGIONAL DEMOCRACY**

### **5.1. Antecedents: main developments concerning regional democracy**

162. In the Republic of Moldova, the word “region” is used in two contexts. There are six regions for economic development purposes (North, Centre, South, Chişinău, the ATU of Gagauzia and the Transnistrian region of Moldova). These are strictly territorial delimitations of the country for the design and implementation of regional development plans and projects. Therefore, they are not administrative entities on their own and they will not be discussed in this report. In the second context, the word “region” is used to identify Gagauzia, which under Moldovan legislation is an “autonomous territorial unit” and can be depicted as a genuine region, which constitutes, in fact, the only one in the country.

163. After the collapse of Soviet Union and the declaration of independence of the Republic of Moldova, two serious territorial conflicts emerged in the young republic: that of Gagauzia and that of the Transnistrian region of Moldova (the Eastern banks of the Dniester River), both declaring independence in 1991. The second conflict still remains unresolved, with a self-proclaimed independent country, almost unrecognised internationally, but constituting a territory that is out of the control of the Chişinău authorities. For this reason, we will not address this topic in this report. Gagauzia (in Gagauz: *Gagauz Yeri*) also declared independence on 19 August 1991. After several political moves, the region was re-incorporated into the country in 1994 and the Parliament of the Republic of Moldova adopted the Special Legal Status of Gagauzia Act. Therefore, the present political arrangements in Gagauzia constitute a political compromise intended to resolve a delicate territorial situation. The status of Gagauzia and the political arrangements for its autonomy have been – and to a certain extent, continue to be – a matter of much political controversy and discussion. Gagauzia is now an “autonomous territorial unit” (ATU) with three official languages: Romanian, Gagauz and Russian. The majority of its inhabitants are of Gagauz ethnic origin.

### **5.2. Constitutional scheme for regional democracy**

164. The existence and autonomy of the ATU of Gagauzia is explicitly recognised in the Article 111 of the Moldovan Constitution, a long provision formed by seven indents. Article 111.1 identifies Gagauzia as an “an autonomous territorial unit having a special status and representing a form of self-determination of the Gagauzian people”. Although it is said that it “constitutes an integral and inalienable part of the Republic of Moldova”, the constitution expressly provides that Gagauzia “shall resolve its political, economic and cultural issues independently, within the limits of its competence, pursuant to the provisions of the Constitution of the Republic of Moldova, in the interest of the whole of society”.

165. The organic, structural and functional dimension of the regional autonomy of Gagauzia are regulated in a specific statute, which has the nature of an organic law: this organic law can only be amended by a vote of three fifths of the elected members of the Moldovan Parliament. For its part, the Special Legal Status of Gagauzia Act provides that Gagauzia (*Gagauz Yeri*) is an autonomous territorial entity with a special status that, as a form of self-determination of Gagauzians, is an integral part of the Republic of Moldova (Article 1.1). Article 1.2 of the special status of Gagauzia also proclaims the autonomy of this territory: “Gagauzia resolves independently, in interests of its entire population, issues of political, economic and cultural development, within the limits of its competence”. The regional autonomy of Gagauzia is a very special one and has a strong political component, since the present arrangements do not mean that the Gagauzian people have given up their right to self-determination. This is explicitly recognised at Article 1.4 of the Special Legal Status of Gagauzia Act, according to which, “in case of a change to the status of the Republic of Moldova as an independent state, the people of Gagauzia have the right to external self-determination”.



166. Under Article 2 of the Special Legal Status of Gagauzia Act, “Gagauzia is governed on the basis of the Constitution of the Republic of Moldova, the current law and other laws of the Republic of Moldova (with exceptions provided by this act), Regulations of Gagauzia and normative acts of the People’s Assembly (*Halc Topluşu*) of Gagauzia, which comply with the constitution and legislation of the Republic of Moldova”. Therefore, the autonomy of Gagauzia is recognised, proclaimed and protected by the constitution, and by the Organic Law on the Special Legal Status of Gagauzia, which can only be modified according to strict procedures and parliamentary majorities. The constitutional court has ruled that the Special Legal Status of Gagauzia Act has the same legal power as any other organic law. Therefore many ulterior organic laws have altered the competences of Gagauzia, something which is unsatisfactory from the perspective of regional democracy. Another important legal rule is the Legal Code of Gagauzia, which is a piece of regional legislation supplementing the provisions included in the Special Legal Status of Gagauzia Act.

### **5.3. Internal organisation**

167. Article 111.3 of the constitution provides that, “within the autonomous territorial unit of Gagauzia, representatives and executive bodies shall function according to the law”. The status of Gagauzia regulates these two types of bodies (while the judicial power is fully a matter of national competence). There is a representative body, called the People’s Assembly (*Halc Topluşu*) of Gagauzia. Its members are elected every four years by the inhabitants of the region in direct elections. The People’s Assembly is endowed by legislative powers within its own jurisdiction and has some additional special powers. For instance, if the state-level rules interfere with the jurisdiction of Gagauzia, it has the right of appeal to the Constitutional Court of Moldova.

168. The head of the executive power is the governor, or Bashkan, of Gagauzia (Gagauz: *Başkan*), who is also elected democratically every four years. On 23 March 2015, Irina Vlah was elected as the new Bashkan of Gagauzia, with whom the delegation met during its visit.

### **5.4. Analysis of the situation of regional democracy on an article-by-article basis, from the perspective of the Council of Europe Reference Framework for Regional Democracy**

#### **5.4.1. Regional competences**

169. The competences of the ATU of Gagauzia are not regulated by the constitution, but by the Special Legal Status of Gagauzia Act. They may be sorted into legislative and executive ones. Concerning the first, the People’s Assembly is endowed by legislative powers within its own jurisdiction. According to the status of Gagauzia, this includes laws on education, culture, environmental protection, local development, budgetary and taxation issues, social security and questions of territorial administration. In addition, the People’s Assembly has the power to participate in the formulation of Moldova’s internal and foreign policy.

170. Concerning executive powers, the Government of Gagauzia implements and enforces regional laws and regulations, plus those competences that are recognised to the region either by the status of Gagauzia or by general Moldovan legislation (for instance, health care). Gagauzia has its own official banner and coat of arms. Gagauzia enjoys both administrative resources and financial tools to implement its self-government.

171. Gagauzian authorities told the delegation that they were in general satisfied with their statutory competences. They do not demand more competences, but they want the competences that are already recognised be effectively implemented, which is not systematically the case.

172. The competences of Gagauzia largely comply with the requirements of the Reference Framework for Regional Democracy. However, it should be noted that there is some lack of clear delineation of Gagauzia’s competences. The law on special legal status of Gagauzia is vague and this leads to many laws adopted by Gagauzia being challenged in courts and cancelled. This is a source of political tension between Comrat and Chişinău.

#### **5.4.2. Relations with other sub-national territorial authorities**

173. Within the ATU of Gagauzia there are three cities (one with municipality status) and 23 communes. There are also three districts (*Raioane*). The most important city is Comrat, which is the capital of the region.

174. As part of its autonomy, the ATU of Gagauzia also has competences in local government matters. Therefore, the natural intermediary of the local authorities in Gagauzia, in day-to-day operations, is not the central government but the regional government. For instance, in most cases of new investments and projects, the mayors of local authorities located in Gagauzia (26 in number) have to contact the regional executive, and not the line ministries in Chişinău. Moreover, the regional government regularly transfers 50% of the regional total budget for investments to the local governments located in the region. According to the Bashkan, dialogue and co-operation with these local authorities is positive, and in practice the Gagauzian local authorities enjoy more autonomy and freedom than in the rest of the country.

175. In this respect it should be pointed out that the local political landscape of Gagauzia is slightly different from the rest of the country. While in the rest of the country the majority of mayors are now affiliated with the Democratic Party, there are no mayors of the Democratic Party or of the Socialist Party in Gagauzia. Therefore, the regional government and the local authorities enjoy excellent political accord.

176. In this respect, this aspect of the Reference Framework for Regional Democracy is complied with by the ATU of Gagauzia.

#### **5.4.3. Involvement in the state decision-making process**

177. As stated above, the People's Assembly has a special power that is not always recognised in many regional realities: that of participating in the internal and foreign policy of the Republic of Moldova. This means that the legislative body of the ATU of Gagauzia has a say in the formulation and decision-making about matters of general and national interest. However, and according to our interlocutors, this is a legal provision that is not fully implemented in practice. There are other mechanisms that ensure the effective involvement and participation of Gagauzia in state-level decision-making procedures. To begin with, the Bashkan has an office and staff located in close proximity with the government, as it is located in the same government building used by several ministries. The sense of physical proximity between the Chişinău and Comrat executives is therefore very strong. The Bashkan is an *ex officio* member of the Government of Moldova, meaning that she has the right to participate in all the meetings of the central government. She can take the floor in discussions and has the right to vote.

178. Another interesting mechanism to ensure the involvement of Gagauzia in state decision-making is the official working group on Gagauzia, an inter-parliamentary committee, set up in early 2016 and formed by members of the Moldovan Parliament and of the People's Assembly of Gagauzia. This group may adopt legislative initiatives to ensure the efficient exercise of Gagauzia's autonomous powers or to strengthen the status of Gagauzia within the Republic of Moldova. These proposals, once approved by the People's Assembly of Gagauzia, are later forwarded to the National Parliament of Moldova, for discussion and eventually for approval. According to the interlocutors the delegation met, the dialogue established within the group has significantly improved relations between Chişinău and Comrat. In July 2016 the group approved 21 decisions, focusing on the implementation of the socio-economic competencies of Gagauzia (for instance, the establishment of an Agency for Regional Development in Gagauzia, and the promotion of a four-year Programme on Socio-Economic Development for the region). The group also voted to recommend an amendment to Article 27 of the Special Legal Status of Gagauzia Act, with the aim of ensuring that no modification in this act can be made without the prior, express consent of the Gagauzia People's Assembly. However, this draft Act is still being discussed in the Parliament and its fate is unclear.

179. During the consultation procedure, the government underlined that the strengthening of the direct, systematic and institutionalised dialogue between the central and local public administration, including ATU of Gagauzia, is one of the main objectives of governance.

180. However, the Gagauzian authorities made several complaints on the situation of interterritorial dialogue not directly related to the existence of the working group and other means of interterritorial dialogue. First, they complained that the state authorities regularly adopt laws and regulations without taking into consideration the interests of Gagauzia, and that there is no consultation with the Gagauzian authorities in a number of legislative or regulatory initiatives that directly or indirectly affect the interests or

the competences of Gagauzia. They complained also that the legislative proposals are sent to the Gagauzian authorities at very short notice, sometimes even the very same day when the government regulation or decision is supposed to be adopted in the Council of Ministers, which in practice excludes any meaningful consultation. Finally, they complained that the vast majority of the initiatives adopted by the working group are severely amended in parliament, despite assurances that they would not be modified in parliament. Some other legal initiatives have been sent back by the President of the Republic, and they remain stalled in parliament.

181. In the light of these points, the delegation considers that this feature of the regional autonomy of Gagauzia complies with the requirements of the Reference Framework for Regional Democracy, although there is clearly room for improvement.

#### **5.4.4. Supervision of regional authorities by State authorities**

182. Article 111.6 of the constitution provides that “the government, under the terms of the law, exercises control over the observance of the legislation of the Republic of Moldova within the autonomous territorial unit of Gagauzia.”

183. There are different means by which state authorities control the activities of the regional bodies. On the one hand, the anti-corruption office is entitled to conduct investigations on the authorities of the regional administration. The same applies to the public prosecutor. On the other hand, the national Court of Accounts also has jurisdiction to control the financial activity of the regional bodies, in the same way as it has been presented above in connection with the local authorities. Apart from this more or less extraordinary means of control, Gagauzian authorities and bodies are not regularly supervised or monitored by central authorities, and the regional authorities are autonomous in their day-to-day activities, budgetary and financial decisions, and normative and regulatory acts.

184. The form of control most criticised by the Gagauzian representatives is the fact that the central government can seek the annulment of the laws approved by the People’s Assembly of Gagauzia if the State authorities consider that the Gagauzian legislature has exceeded its powers. It is for the territorial office of the State Chancellery to challenge the concerned local law or decision in the courts of general jurisdiction.

185. In the light of these points, this element of regional democracy in Moldova complies with the Reference Framework for Regional Democracy.

#### **5.4.5. Protection of regional self-government**

186. As noted above, the regional autonomy of the ATU of Gagauzia is proclaimed and protected by the constitution. Therefore, all the political powers of the Republic of Moldova have a duty to respect that autonomy. In case of conflicts, the Constitutional Court plays a key role in the protection of the regional autonomy of Gagauzia. In this sense, when the state authorities adopt laws or regulation that, in the view of Gagauzian authorities undermine regional competences or powers, they have the right to appeal in the Constitutional Court. The *locus standi* in those cases belongs to the regional assembly, not to the Bashkan.

187. Different examples of current conflicts were provided by Gagauzian representatives. The first is in the area of environmental protection: the Moldovan Parliament has enacted legislation setting up a national environment agency, while Gagauzia has full competences on environmental protection. Consequently, Gagauzian authorities claim that this legislation impinges on their exclusive regional competences in this matter. The second is that, according to law, Gagauzia should have its own tax administration, but the central government has established a single and unique tax administration for the whole country, therefore centralising this key financial administration. Finally, they complained that the police force depends exclusively on Chişinău, while under the law there should be a double dependency for the police working in Gagauzia (Chişinău and Comrat).

188. Consequently, Moldovan legislation provides for an effective legal procedure and right to recourse in favour of Gagauzia in seeking to protect its autonomy from undue and unconstitutional encroachments by the central government or legislature.

189. Therefore, the rapporteurs consider that this feature of regional government complies with the requirements of the Reference Framework for Regional Democracy.

#### **5.4.6. Right of association**

190. The right of association of the ATU of Gagauzia with other regions is not explicitly recognised in Moldovan legislation due to the fact that there are no other regions in the country. Therefore, this provision of the Reference Framework for Regional Democracy is redundant or not applicable.

#### **5.4.7. External relations. Transfrontier co-operation**

191. As noted above, Gagauzia has statutory powers to participate in the foreign policy of the Republic of Moldova. Furthermore, the Gagauzian people retain the right to self-determination if the country experiences a significant geopolitical transformation, contrary to the present status quo. The region is also endowed with the power to carry out transfrontier co-operation projects and initiatives.

192. Consequently, the requirements of the Reference Framework for Regional Democracy are respected, in this respect.

#### **5.4.8. Regional finances**

193. Article 111.5 of the constitution provides that, “the budget of the autonomous territorial unit of Gagauzia shall be drawn up in conformity with the terms established by the Special Legal Status of Gagauzia Act.”

194. The People’s Assembly of the ATU independently discusses and approves the regional budget every year, on the proposal of the Executive Committee. According to the information collected by the delegation, the proportion of the own resources in the regional budget of Gagauzia has increased in recent years. In 2015, the proportion of own resources accounted for only 30% of the whole revenue, while this proportion has now reached 50%. The remaining 50% is made up of transfers granted by the central government, from the state budget. In terms of expenses, the most important chapters are education and health care (salaries of teachers and doctors). Other important shares of expenditures are culture, sport and social security.

195. Once, the budget is approved, the regional authorities enjoy full discretion and autonomy to use their own resources in the projects and infrastructures of their choice.

196. In consequence, in that respect, the requirements of the Reference Framework for Regional Democracy are complied with.

## **6. OTHER MATTERS RELATED TO THE FUNCTIONING OF LOCAL AND REGIONAL SELF-GOVERNMENT**

197. This part of the report is dedicated to discussing different situations and developments that, strictly speaking, do not fall under the scope of the Charter, but are relevant for the political dimension of local democracy in the country.

### **Poor level of local democracy and unsatisfactory political climate**

198. The rapporteurs observed once more that the level, depth and extent of local democracy and local autonomy is far from satisfactory in relation to common European standards. Although the democratic process is ensured at the voting level for the designation of local representatives, the vitality and strength of local self-government has not experienced significant improvements since the last monitoring visit in 2012, and the institutional vitality of local democracy may be assessed as low and poor. In addition, the general climate of local politics seems seriously embittered, with recurrent and almost unanimous claims of political harassment and undue pressure from the central government, formulated by the CALM and notable local elected representatives.

199. A central piece in this charged political climate is represented by the recurrent and apparently arbitrary use of criminal files (*dossar penale*) opened by the public prosecutors (who depend on the

government) against mayors and other local leaders. Once again, almost all our interlocutors at local level were subject to one or several investigations opened against them, sometimes for irrelevant charges (like cutting protected trees) or for failing to take action in areas for which they lack the necessary managerial and human resources (like not adequately protecting molested children). As pointed out in the adopted report on the last fact-finding mission (CG34(2018)09final), the consequences of this situation are very serious from the perspective of the functioning of local democracy. Indeed, the prosecutors are exerting, *de facto*, a very strong influence on the functioning of local governments. Moreover, many local leaders are dissuaded from remaining in local political life, and young people in particular are discouraged from engaging in local politics. Many people decline to run as candidates in local elections, and in many places there is only one candidate for local elections.

200. Another element of this embittered political climate is the fact that many mayors and presidents of district councils have changed their political affiliation since the local elections held in 2015. According to data provided by the CALM, in those elections the Democratic Party of Moldova, which currently forms the central government, obtained 287 mayoral positions, while in June 2018 this figure had increased significantly, to reach more than 600. The same pattern can be noted in respect to district councils, where this party obtained 17 positions as presidents of the district councils, while today it runs 28 such districts. According to the CALM, this pattern of mayors changing their political affiliation is due to political threats and undue pressure exerted by the central government. Government officials denied those allegations and ensured the delegation that these moves were based on purely personal decisions.

### **The governance of the municipality of Chişinău**

201. In recent years, Chişinău has been the centre of media and political attention, including from the Congress, because of events involving the mayoral position. These events were discussed extensively in the reports produced following the two fact-finding visits carried out in Chişinău in 2017. During this monitoring visit, the delegation learned that Mr Dorin CHIRTOACĂ (mayor of Chişinău since 2007 and who had been arrested and prosecuted on criminal charges) had resigned from his position of Mayor of Chişinău and new local elections were called in May 2018. The elections were held on 3 June 2018 and Mr Andrei NĂSTASE, the leader of the Dignity and Truth party, won the elections. The delegation held a meeting with him shortly after his victory. A mission of international observers from the Congress went to Moldova to observe the elections and there were also local observers. No fraud was reported.

202. However, and short after the end of the monitoring visit (19 June 2018) a first instance judge, apparently without receiving any challenges to the validity of the elections from any candidate, declared the elections null and void, on the ground that Mr NĂSTASE, on election day, had made use of his Facebook account, calling on people to go to vote (without saying for whom to vote) and that this behaviour could have influenced the results of the vote. According to the interlocutors of the rapporteurs, not only the candidates in local elections, but also most politicians regularly call on people to go to vote, without mentioning for whom to vote, in order to increase participation. This is apparently not against the law. On the 21 June 2018, the Court of Appeal of Chişinău confirmed and upheld the decision of the court of first instance, and consequently the confirmed the declaration of nullity of the elections. There is still room for an appeal in the Supreme Court.

203. Consequently, the elected mayor, Mr NĂSTASE, has so far been unable to start his mandate. These facts have triggered much political controversy not only in Moldova (with frequent demonstrations in Chişinău), but also internationally (for instance, on 28 June 2018 the EU warned Moldova over the invalidated mayoral election). Meanwhile, and since the house arrest of Mr CHIRTOACĂ in May 2017, the City of Chişinău has been run by acting, non-elected mayors, who have been taking decisions with the same extent and scope as if they were real elected mayors.

204. The situation is obviously very serious and the Moldovan authorities should be required to take urgent action to restore the institutional normality in the City Hall of the country's capital city. Respect for democratic principles itself is at risk and this anomalous situation might have tremendous repercussions for the international reputation of the country.

## 7. CONCLUSIONS

205. In the last 25 years, taking into account its point of departure, the Republic of Moldova has made a significant effort in the field of decentralisation. Among those efforts stand the full ratification of the Charter; a comprehensive change of the domestic legal order aimed at the inception of an autonomous local level of government; territorial reforms at different stages; devolution of competences to local authorities, coupled with a degree of mild fiscal decentralisation, etc.

206. The Charter is considered a binding and operational rule, and the case law of the Constitutional Court ensures its applicability. Moreover, every local authority now has the right to litigate in the Constitutional Court to protect local autonomy.

207. Concerning regional democracy, the present arrangements for the ATU of Gagauzia represent a workable political compromise between Chişinău and Comrat that is working well in general terms, although there are also points of political tension, and that combines the unitary nature of the country with the desire for autonomy, devolution and self-determination of the Gagauzian people. The current arrangements and the situation of regional devolution in the ATU of Gagauzia satisfy the requirements of the Reference Framework for Regional Democracy, although improvements could be made on number of issues, such as the full deployment of Gagauzia's competencies and more fiscal devolution.

208. Despite the clear improvements achieved in the field of local democracy since the declaration of independence, the present situation of local self-government deserves an overall negative assessment, owing to the many infringements and points of non-compliance with the Charter which have been presented throughout this report.

209. Local authorities are endowed with a modest remit of self-government. State intervention in local affairs seems to be more invasive, frequent and discretionary than the law would normally allow for.

210. The financial autonomy enjoyed by the local authorities is very limited and the situation of local finances is extremely poor both in terms of the proportion of own revenue, and of the proportion and importance of local spending in total public expenditure.

211. There is a system of financial equalisation in place aimed at reducing economic disparities between the richer and the poorer local authorities, but it falls short of ensuring its objectives.

212. There is no institutionalised, honest and fruitful pattern of dialogue and negotiation between the central government and the local authorities.

213. Intermunicipal co-operation seems to be underdeveloped.

214. The political context for the exercise of mayoral functions is negatively affected by the intensive practice of bringing criminal prosecutions against mayors and other local representatives (*dossar penale*). Some of these criminal charges seem to be brought for unreasonable or insignificant reasons, which sometimes are connected with the lack of resources for local authorities to discharge their competences.

215. The salaries and remunerations of local government employees are clearly insufficient, and prevent local authorities from hiring and retaining a capable and qualified staff.

216. The remunerations of mayors are far from decent or sufficient, and constitute an important factor for deterring young and qualified people from engaging in local politics.

217. Local politics as a whole seem to be pervaded by negative elements and influences, ranging from the lack of incentives for potential young politicians, widespread political pressure, or at least the appearance thereof, and the extended feeling of over-politisation, in a partisan sense of the word, of the whole landscape of local life.

## APPENDIX

**CONGRESS MONITORING VISIT TO THE REPUBLIC OF MOLDOVA  
Chişinău, Drăşliceni (13-15 June 2018)**

**FINAL PROGRAMME**

**Congress delegation**

**Rapporteurs:**

|                        |  |
|------------------------|--|
| Ms Gunn Marit HELGESEN | Rapporteur on regional democracy<br>Vice-President of the Congress<br>President of the Chamber of Regions, EPP/CCE <sup>8</sup><br>Mayor of Telemark, Norway |
| Mr Marc COOLS          | Rapporteur on local democracy<br>Chamber of Local Authorities, ILDG <sup>9</sup><br>First Deputy Mayor, Uccle, Belgium                                       |

**Congress secretariat:**

|                        |  |
|------------------------|--|
| Ms Stéphanie POIREL    | Secretary to the Monitoring Committee of the Congress<br>of Local and Regional Authorities of the Council of<br>Europe |
| Ms Alessandra D'ARRIGO | Assistant to the Monitoring Committee of the Congress<br>of Local and Regional Authorities of the Council of<br>Europe |

**Expert:**

|                              |   |
|------------------------------|---|
| Prof. Angel M. MORENO MOLINA | Expert, Chair of the Group of Independent Experts on<br>the European Charter of Local Self-Government |
|------------------------------|---|

**Interpreters:** (provided by the Council of Europe)

Mr Serge BUFTEAC  
Mr Alexandru MELENCIUC

The working language of the meetings was English. Interpretation from and into Romanian was provided.

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8. EPP/CCE: European People's Party Group of the Congress.

9. ILDG: Independent Liberal Democrat Group in the Congress.

**Wednesday 13 June 2018**  
**Chişinău**

- **Joint meeting with the National Delegation, the Congress of Local Authorities of Moldova (CALM) and expert:**

**National Delegation of Moldova to the Congress and members of the CALM**

**Ms Tatiana BADAN**, Mayor of Selemet, *Raion* Cimislia, President of the CALM, Head of Delegation

**Ms Iraida BINZARI**, Head of Falesti District, Full Member of the Congress

**Mr Dorin CHIRTOACA**, Vice-President of the Congress, Full Member of the Congress

**Mr Constantin COJOCARI**, Mayor of Edineţ, Full Member of the Congress

**Mr Gheorghe RAILEANU**, Mayor of Cimislia, Full Member of the Congress

**Ms Valentina CASIAN**, Mayor of Straseni, Alternate Member of the Congress

**Ms Violeta CRUDU**, Mayor of Cruzesti Village, Alternate Member of the Congress

**Mr Grigore POLICINSCHI**, President of the Region of Dubasari, Alternate Member of the Congress

**Mr Vasile ROMANIUC**, Head of Ocnita District, Alternate Member of the Congress

**Mr Alexandr TARNAVSKI**, Deputy Head of the popular Assembly of the Autonomous Territorial Unit of Gagauzia, Alternate Member of the Congress

**Independent expert**

**Mr Ion BESCHIERU**

- **Joint meeting with the Union of the *Raion* Councils (UCRM) and the Association of City Mayors**

**Mr Veaceslav BURLACU**, President of the Union of the *Raion* Councils

**Mr Alexandru BOTNARI**, President of the Association of City Mayors, Mayor of Hînceşti

**Mr Petru COZLAN**, Mayor of Căţeleni, President of *Raional* Association of Mayors

**Ms Eugenia PLACINTA**, Assistant to the President of the Association of City Mayors

- **State Chancellery**

**Ms Cristina LESNIC**, Deputy Prime Minister

**Mr Adrian ERMURACHI**, Deputy Secretary General of the Government

**Ms Uliana STICI**, Main Consultant, Public Administration Department

**Mr Iurie CIOCAN**, Chairman of the Central Election Commission of Moldova



- **Authorities of the Autonomous Territorial Unit of Gagauzia**

**Ms Irina VLAH**, Governor (Bashkan) of Gagauzia

**Mr Vadim CEBAN**, First Deputy, President of Executive Committee

- **Ombudsman**

**Ms Svetlana RUSU**, Head of the Investigation and Monitoring Division in the Office of the People's Advocate

**Thursday 14 June 2018**  
**Chişinău**

- **Chişinău City Hall**

**Mr Andrei NĂSTASE**, Mayor of Chişinău

- **Constitutional Court**

**Mr Aurel BAIESU**, Constitutional Judge

**Mr Teodor PAPUC**, Deputy Head of the Secretariat

- **Court of Accounts**

**Mr Veaceslav UNTILA**, President

**Ms Tamara ANDRUSCA**, Member

**Mr Petru ROTARU**, Member

- **Ministry of Agriculture, Regional Development and Environment**

**Mr Liviu VOLCONOVICI**, Minister

**Ms Galina PETRACHI**, Head of Policies and Programmes for Rural Development Department

**Mr Igor MALAI**, Head of Policies for Regional Development Department

**Ms Olga SERBINOS**, Head of Territorial Planning Department

- **City Hall of Drăslăceni**

**Mr Petru BUZU**, Mayor of Drăslăceni

**Friday 15 June 2018**  
**Chişinău**

- **Parliament of the Republic of Moldova**

**Mrs Elena BODNARENCO**, Communist Party

**Mr Iurie ȚAP**, Liberal Democratic Party

**Mr Ștefan VLAS**, Liberal Party

- **Ministry of Finance**

**Mr Octavian ARMAȘU**, Minister of Finance

**Ms Veronica SIRETEANU**, State Secretary

**Mr Lage OLOFSSON**, High Level Adviser to the Ministry of Finance

**Mr Dorel NOROC**, Chief of Tax Policy Department

**Ms Natalia SCLEARUC**, Chief of Budget Syntheses Department

**Mr Ion IACONI**, Chief of Local Budgets Section