

Strengthening institutional
frameworks for local governance

REPUBLIC OF MOLDOVA

Handbook on Transparency and Citizen Participation

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REPUBLIC OF MOLDOVA
Handbook on Transparency
and Citizen Participation

Strengthening institutional frameworks for local governance

Council of Europe

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Four handbooks were produced with country-specific information for Armenia, Georgia, the Republic of Moldova and Ukraine. They aim to preserve and share the lessons learnt and best practices identified during the implementation of the abovementioned project, which is supported by the national associations of local authorities.

The research work and writing of this *Handbook* was carried out by Mr Tim Hughes, Director of The Involve Foundation, and Ms Veronica Cretu, national consultant for the Republic of Moldova. The overall co-ordination was ensured by the Department of Co-operation and External Relations of the Secretariat of the Congress of Local and Regional Authorities of the Council of Europe.

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FOREWORD

Governments can only function effectively if they enjoy the trust of their citizens. Local governments, municipalities and their civil servants have a crucial role in trust building and participatory decision making, since they have a certain degree of autonomy over the distribution of resources, play an intermediary role with regard to national governments, and represent the first interface between citizens and elected representatives. The professionalism and integrity of these governments and local administrations and their ability to function in a transparent, responsive and accountable manner will doubtlessly lead to enhanced, fair and equitable services to citizens. Local and regional elected representatives therefore must act as role models in the areas of public ethics, transparency and participatory decision making.

However, we cannot ignore the fact that local authorities, as any public authority, are susceptible to corruption, which poses a major threat to the legitimacy of democratic institutions, as well as to the degree of trust that citizens place in their representatives. Threats such as the lack of transparency and poor public ethics are problems faced by all levels of government, including the local and regional levels. They affect citizens, governments and businesses alike and pose a threat to the universal access to basic services and local development. The fight against corruption needs to remain a long-term priority for local and regional governments and their associations. Concerted preventive action is paramount in order to foster economic growth, improve living conditions and develop citizens' trust.

As the decentralisation of power advances, the quality of local governance becomes even more decisive. Therefore, along with the introduction of criminal law provisions against corruption, it is essential to promote public ethics, transparency and participatory decision making in order to reduce the risk of corruption and boost the citizen confidence in local and regional authorities. The Congress of Local and Regional Authorities of the Council of Europe took a firm step in the promotion of ethical governance by adopting, in 1999, the European Code of conduct for the political integrity of local and regional elected representatives. An advisory group was recently established to revise this Code and update it to address the new challenges, including new forms of communication, the impact of digital technology, the respect for the privacy of data, and to enlarge the scope of its application to all actors involved in local and regional governance, and not just elected officials.

The Congress is committed to promote ethics and transparency at local and regional levels as an essential component of enhancing the quality of local and regional democracy, one of the key priorities for the period 2017-2020. With that aim it set "Ethics and Transparency at local and regional level" as the theme for its two plenary sessions in 2016, and in October 2016 adopted a "Roadmap of activities for preventing corruption and promoting public ethics at local and regional levels". One of the objectives of this roadmap is to deepen our understanding of the various risks and forms of corruption

that exist at the local and regional levels. In that perspective the Congress recently adopted reports on the abuse of administrative resources in election campaigns as well as on preventing corruption in public procurement, and is currently preparing reports on conflicts of interests, the protection of whistle-blowers, nepotism in the recruitment of staff, and transparency and open government.

As a sign of its political determination to tackle this issue, the Congress has appointed a spokesperson on promoting public ethics and preventing corruption at the local and regional levels, Mr Herwig Van Staa, along with a substitute spokesperson, Mr Andreas Galster. In 2017, during the 33rd session of the Congress, it also brought to the fore the important perspective of young people and open government in the fight against corruption. This is a comprehensive and long-term approach to corruption prevention, including through the co-operation activities of the Congress of which this Handbook is just an example, which sends a clear signal of our intention to make this a priority activity for the years to come.

The attitudes and expectations of our citizens with regard to public governance are changing. We are witnessing a growing mistrust toward public institutions and their representatives. In this regard, effective mechanisms for the implementation and compliance with standards of conduct are essential to renew the confidence in public administration. Preventing corruption, reducing its risks, and developing effective, accountable and transparent institutions at all levels are key components of just and inclusive societies.

With this in mind, this *Handbook on transparency and citizen participation in the Republic of Moldova* is aimed at local authorities, mayors, local councillors and civil servants, to support them in their efforts to improve the quality of local governance in their villages, towns and cities. The *Handbook* will provide local authorities with practical guidelines on transparency and citizen participation, identifying the relevant international standards and national legislation, and providing case-law examples and best practices which it recommends be applied and promoted by all Moldovan local authorities.



Andreas Kiefer

Secretary General

Congress of Local and Regional Authorities

PURPOSE AND STRUCTURE OF THE HANDBOOK

Transparency and citizen participation are key tools in the development of good governance. Both help to create the conditions for citizens to understand and evaluate the decisions which the government is taking on their behalf, as well as to ensure that their own needs and views are taken into account in the decision-making process.

Effective transparency and participation can help to drive out corruption and government malpractice. They are also more positive tools as they help produce the conditions for increased trust. Finally, they also help governments to draw on the skills and experience of citizens to enable better decision making and the delivery of more effective public services.

This *Handbook on Transparency and Citizen Participation in Moldova* aims to support local authorities in their efforts to improve the quality of local governance. It provides them with practical guidance on transparency and citizen participation, based on the Council of Europe principles and with reference to the general international standards and particular national legislation.

To fulfil its purpose as a practical reference guide to support local authorities in their daily work, the *Handbook on Transparency and Citizen Participation in the Republic of Moldova* includes country-specific information about anti-corruption legislation, transparency policies and citizen participation mechanisms. In particular, the user of this *Handbook* is provided with a straightforward look at relevant national legislation, a concise assessment of the most prevalent corruption risks, and a set of best practices to introduce and implement transparency and citizen participation mechanisms.

The *Handbook* is structured in four main chapters:

■ CHAPTER 2 – Ethics and Public Accountability

This chapter highlights the importance and challenges of ethics and public accountability in the Republic of Moldova. Moreover, it is emphasised how essential they are for an effective, transparent and participatory governance.

■ CHAPTER 3 – Corruption Risks

This chapter introduces the most common corruption risks identified in the Republic of Moldova and outlines relevant international anti-corruption standards, along with the national legal framework for each form of corruption. In addition, this chapter is supported with examples of case law related to each corruption risk.

■ CHAPTER 4 – Transparency

This chapter introduces five transparency mechanisms, which have been selected to represent the diversity of approaches to transparency. Each mechanism includes an

introductory description and an outline of international standards. This is followed by four sections summarising key national laws and presenting practical guidelines and best practices which may serve as examples for local authorities in their efforts to enhance transparency.

■ **CHAPTER 5 – Citizen Participation**

This chapter introduces five citizen participation mechanisms, which have been selected to represent the diversity of approaches to citizen participation. Following the same structure as in the previous chapter, it includes an introductory description for each mechanism and outlines relevant international standards. This is followed by four sections summarising key national laws and presenting practical guidelines and best practices which may serve as examples for local authorities in their efforts to foster and improve citizen participation.

ETHICS AND PUBLIC ACCOUNTABILITY

2.1. INTERNATIONAL CONTEXT

Ethics and public accountability are essential features of an effective local or regional authority. They refer to the culture, processes, structures and rules that ensure those in public office act in the wider public interest, rather than their own self-interest. They are an essential feature of good governance, and apply equally to organisations in the private and civil society sectors, as well as public authorities.

Ethics are the rules that define the conduct of public officials¹ in order to ensure that the public is treated fairly and with equality. Ethics can help officials make better decisions in the public interest, as well as help people evaluate the decisions taken on their behalf by public officials.

Public accountability ensures that officials are openly answerable for the decisions they are taking on behalf of the public.

In the absence of ethics and public accountability, corruption and malpractice is able to thrive. As outlined in the following section, corruption is damaging to individuals, society, the economy and government in a number of respects. Ethics and public accountability can help curb the worst excesses of power, and encourage more responsible and fairer decision making by local authorities.

Even where corruption is not endemic, the absence of ethics and public accountability can be corrosive to public trust in government, public institutions and officials. While the relationship between both ethics and public accountability is complex, when done well, they can help to build and strengthen trust between the public and government.

On the other hand, ethics and public accountability can also play a much more positive role. They recognise that citizens and other stakeholders have much value to offer in decision making. They can help to ensure that their personal experiences, expertise, knowledge and scrutiny add value to, and strengthen, decisions taken by government and public officials.

Finally, effective ethics and public accountability are also key elements of improving public services. This is based on the idea that public services that are more responsive and accountable to people - and benefit from their insights, ideas, energy and scrutiny - will work better for people.

Taken together, ethics and public accountability help to ensure that decision making and resource allocation are fair, efficient and effective, which in turn helps to enable a flourishing democracy, economy and society.

Transparency and citizen participation are important mechanisms for promoting ethics and public accountability in national and local government. A recent report for the European Committee of the Regions on “Preventing Corruption and Promoting Public Ethics at the Local and Regional Level in Eastern Partnership Countries” found that lack of transparency was the main vulnerability in all of the cases assessed.² This handbook outlines a range of transparency and citizen participation mechanisms that can be adopted by local and regional authorities.

2.2. NATIONAL CONTEXT

The Republic of Moldova has managed to make serious progress in passing anti-corruption legislation, a significant portion of which was adopted between 2011 and 2013 as part of the EU Visa Liberalization Action Plan. The European Union has constantly demanded tangible results from the Republic of Moldova in its fight against corruption. Today, however, corruption still exists in every possible form, ranging from bribery and fraud to embezzlement and clientelism. It remains one of the most serious issues for the Republic of Moldova; the Control of Corruption Index³ shows an increase in perceptions of the extent to which public power is exercised for private gain, with scores of 14.42% in 2016 as opposed to 17.31% in 2015 and 28.23% in 2009 (on a 1 (most corruption) to 100 (least corruption) scale).⁴

Chisinau has established a National Integrity Agency⁵ and strengthened the independence of the National Anticorruption Center. Going forward, the key challenge in fighting corruption is the integrity of the anticorruption institutions and their ability to combat corruption at the highest level.

At the same time, transparency, accountability, citizen engagement and citizens’ trust in government are still crucial concerns for the Republic of Moldova, which registered a dramatic decline of trust in government since 2014.⁶ Citizens’ access to public information is not fully ensured because the Law on Access to Public Information does not fully clarify the obligations of the public administration to proactively make it available. In addition, the implementation of the law is not monitored.⁷ Regardless of this, the Republic of Moldova has been among the first countries in the region to adopt an open data by default methodology, and to institutionalise the position of the open data co-ordinators in each Ministry.⁸

The country’s regulatory framework has a great potential to address corruption, ensuring transparency, accountability and open government overall. However, some laws should be amended and the implementation of the relevant legislation and mechanisms needs to be improved. The Republic of Moldova is currently implementing its 3rd National Action Plan on Open Government, based on the principles of access to information, data, citizen engagement and transparency.⁹

Local level efforts to strengthen democracy and citizen engagement in policy making are being mandated by the Law No. 436 on Local Public Administration, which regulates transparency in decision making (Article 8). The Law No. 780 on Legislative Acts and

the Law No. 317 on Normative Acts of the Government and other Central and Local Administration provide rules for public authorities to consult with interested authorities and agencies on draft laws. Moreover, all draft laws and decisions of the Government are subject to mandatory anti-corruption expert examination by the National Anticorruption Center.

Proper implementation of the above provisions by all key state actors, at all levels, could bring citizens of the Republic of Moldova closer to the decision-making and policy-making processes, and thus, generate public services that better respond to the increased needs and demands of the population. Ultimately, it may generate more trust in the government, be it at local or national levels.

CORRUPTION RISKS

In the absence of ethics and public accountability, corruption and malpractice is allowed to thrive, which undermines the foundations of a peaceful, prosperous and just society.

Corruption is a major challenge to democracy and the rule of law. It results in decisions and resource allocation that do not reflect the interests of the public and concentrates political power in the hands of the few. It in turn causes political leaders and institutions to lose legitimacy and public trust, which reduces their ability to govern.

Corruption also causes local and regional authorities to be inefficient and ineffective in exercising their duties. It results in decisions being made not on the basis of what is in the interests of society at large, but what is in the self-interests of the decision maker and their associates. It leads to public money being misspent, with contracts being awarded to inferior providers and budgets being misallocated. At its worst, it enables public officials to misappropriate money and resources, using their position to get rich to the cost of those they have a duty to serve.

Corruption can also result in public officials being appointed on the basis of favouritism rather than merit, meaning that local and regional authorities do not have access to the brightest and best talent. This in turn creates a fertile environment for further corruption and reduces even more the efficiency and effectiveness of the administration.

Inefficient and ineffective organisations, staffed by individuals who gained their position on the basis of something other than merit, result in poor quality public services and infrastructure, thereby eroding public trust and the legitimacy of public institutions. More importantly, however, it results in significant human costs, including poverty, deaths, illness, and restricted life chances.

Finally, corruption harms economic development. It leads to public money being directed to uncompetitive businesses, rather than those that offer more innovative or cheaper products and services. Uncompetitive markets, coupled with the negative impact of corruption on the quality of local public services and infrastructure, means that businesses do not have a solid foundation (of staff, security, investment, etc.) on which to build. In the end, this may cause private and international investors to avoid investing in an area.

3.1. BRIBERY

Bribery is the promise, offer, acceptance or solicitation of a personal advantage (e.g. gift, loan, reward, favour, etc.) in exchange for an unethical or illegal action. Bribery results in decisions not being taken in the public interest, which reduces public trust in institutions and leads to poor public services.

International standards

The following international conventions and standards relate to bribery:

- The **OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions**¹⁰ establishes legally-binding standards to criminalise bribery of foreign public officials in international business transactions. It is the first and only international anti-corruption instrument focused on the 'supply side' of the bribery transaction.
- The **International Anti-Bribery Standard 37001**¹¹ specifies a series of measures to help organisations prevent, detect and address bribery.
- The **OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance**¹² which supports the convention on combating bribery.

National context

The 2016 Global Corruption Barometer¹³ indicates that bribery is a particular risk for households in the Republic of Moldova, especially when needing public medical care, with more than two in five households (42%) having paid a bribe when accessing public health services. The percentage of households that has paid a bribe when accessing basic services in the Republic of Moldova is more than 40% according to the same study. Around one in seven companies indicate they expect to give gifts in the Republic of Moldova to "get things done" and one third of businesses expect to give gifts when obtaining an electrical connection, according to the Moldova Corruption Report 2016.¹⁴

National legislation

Article 16 of the Law on Prevention and Combating Corruption¹⁵ establishes individual and institutional liability for corruption offences, in accordance with the Criminal Code. The same article lists out corruption acts: active corruption, passive corruption, influence peddling, giving bribes and taking bribes. Public agents, including the foreign ones, private individuals and corporate entities shall bear liability, pursuant to the provisions of the Criminal Code, for the deliberate commission of corruption acts. The legislation of the Republic of Moldova currently prohibits active and passive bribery, extortion, abuse of office, bribery of foreign public officials and trading in influence.¹⁶

Examples of case law

In 2016, the National Anticorruption Center detected 102 corruption acts committed by employees of the local public administrations, including 15 mayors. One of the most striking examples dates back to 2016, and is related to a former Prime Minister of the Republic of Moldova. He was sentenced to nine years in jail on corruption charges related to abuse of office in 2016.¹⁷ He was given a fine of 3 000 conventional units, and was deprived of the right to hold public positions for a period of five years. The Order of the Republic, a state distinction,¹⁸ was withdrawn from him as well. He

was indicted for taking bribes relating to the fraud of at least MDL 13.5 billion (then about €750 million) from the banking system, which almost caused the collapse of the country's economy.¹⁹

3.2. CLIENTELISM

Clientelism is the promise and acceptance of a personal benefit (e.g. gift, loan, reward, favour, job, etc.) in exchange for political support. It is often based on an unequal relationship between a patron (e.g. political leader) and client (e.g. voter). Clientelism results in decisions that reflect the special interests of a few, rather than the wider public interest, leading to unfair and unjust outcomes.

International standards

As one type of corruption, clientelism is covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**²⁰ is the only legally-binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.²¹
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**²² aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**²³ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**²⁴ aims to fight corruption involving officials from the EU or its Member States.
- The **Council of Europe's Governance Committee report, Nepotism (Recruitment of Staff)**²⁵ sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of local and regional governments.

National context

A recent report on the Republic of Moldova states that that «*corruption and clientelism remain prevalent, and that there is a lack of connection between citizens' needs and the government's reform agenda*».²⁶

Today, clientelism is a particular risk in the following situations:

The mixed electoral system, voted by the parliament on 20 July 2017. The new voting system provides for 50 deputies to be elected on proportional party lists, while another

51 will be elected in uninominal constituencies (only the candidate who wins the greatest number of votes in an uninominal constituency will make it to parliament). Political analysts and civil society have long argued that uninominal voting would encourage clientelism, nepotism and the allocation of local resources based on clientelism.

Political loyalty/clientelism determines the selection of civil servants at the higher levels of government.

The political affiliation and party migration of local elected officials in order to increase the chances of the respective municipality receiving more funding from national investment funds. The new Law on Local Public Finances implemented from 2015 considerably reduced the political criteria in the distribution of investment funds from national level to municipal level. Before 2015, the members of Parliament usually proposed amendments to the annual state budget law so that localities that are politically-friendly to the incumbents get more public resources and the opposition less.²⁷ Another strong reason for clientelism and political migration of mayors is to avoid the selective pressure of representatives from opposition parties; criminal investigations have started many times without solid evidence. The ratio of mayors from opposition parties against which criminal investigations have been initiated, compared with the ones from the ruling parties is instructive.²⁸

National legislation

One of the most significant examples of clientelism in the Republic of Moldova is related to the allocation procedures for public resources from national investment funds to each of the first level local governments. Public resources are used as “lure” to ensure independent candidates’ loyalty toward the political majority.

There are cases when mayors from other political parties are ‘forced’ to join the ruling party should they want to benefit from capital investments. Currently, there are efforts in place to address the above issues through Law No. 68 of 5 April 2012, on the Approval of the National Decentralisation Strategy and of the Action Plan on the implementation of the National Decentralisation Strategy for the years 2012 - 2018.

Given that clientelism is seen as a dominant trend when it comes to allocation of funds to local public authorities (LPAs) –particularly capital investments–, it is important that the following core principles outlined in the World Bank’s guidebook to capital investments for local governments²⁹ are being referred to by LPAs in negotiations with central public administration authorities (CPAs) and in drafting their local budgets:

Local government does not spend its limited resources on “frivolous” investment in projects that should not be government business (for example, speculative commercial real estate).

- All needs are compared objectively.
- Prudent long-term fiscal policy is exercised.

- Innovative solutions at the project level are considered.
- Individuals have effective channels through which to express their preferences.

Example of case law

Political clientelism undermines the economic development of the Republic of Moldova by deviating public resources from their most efficient usages. Political affiliation matters when the funds for investment are distributed through various national investment funds. There have been attempts to demonstrate such violations back in 2012-2013, with the help of open data, when the BOOST database on public spending was launched.³⁰ It allowed citizens to see budget allocations per each district (raion) and it was clear that the district a former Prime Minister was originally from, Hincesti, was the one with the biggest budget in 2014.³¹ However, these efforts have not yet led to any prosecutions.

3.3. CONFLICT OF INTEREST

A conflict of interest is where an individual is in a position to derive personal benefits from the actions or decisions they take in an official capacity. Conflicts of interest – either if they are actual, perceived or potential³² result in decisions that are, or are considered to be, unfair and self-interested. This reduces public trust in institutions and results in worse outcomes for the public.

International standards

- The **Council of Europe's Recommendation on Codes of Conduct for Public Officials**³³ covers the general issues normally thought to be necessary for avoiding such conflicts.
- The **OECD's Guidelines for Managing Conflict of Interest in the Public Service**³⁴ identify principles and standards for developing policies. It's **Checklist for Enhancing Integrity in Public Procurement**³⁵ provides a guide for promoting integrity in procurement.

Conflict of interest is also covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**³⁶ is the only legally-binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.³⁷
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**³⁸ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.

- The **Council of Europe’s Civil Law Convention on Corruption (ETS No. 174)**³⁹ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union’s Convention against Corruption Involving Officials**⁴⁰ aims to fight corruption involving officials from the EU or its Member States.
- The **Council of Europe’s Conflicts of Interest at Local and Regional Level report**⁴¹ looks at the effectiveness of Conflict of Interest rules, policies and standards at the subnational level.

National context

The Republic of Moldova adopted its law on conflict of interests back in 2008 and became among the first countries in the post-Soviet region to introduce legislation to tackle the problem. The law stands at the core of the Strategy for Prevention and Fight against Corruption, as well as the EU-Moldova Action Plan for 2005-2008 - documents which at the time laid the foundation for the country’s Association Agreement with the European Union. Overall, the processes of building a culture for accountability and zero tolerance to conflict of interests are still slow in the Republic of Moldova. Back in 2014, the National Integrity Commission initiated 354 investigations, of which 50 were cases of conflict of interest.⁴²

National legislation

The legal framework in the Republic of Moldova in the area of conflict of interests is based on two main normative acts: Law No. 16 of 15 February 2008 on Conflict of Interests⁴³ and Law No. 180 of 19 December 2011 on the National Integrity Committee,⁴⁴ both being organic laws. Law No. 16 sets a general framework for the prevention of conflict of interests. Its main purpose, as stated in Article 1, is to regulate the incompatibilities and restrictions imposed on persons with public functions or positions in central and local public administrations, the resolution of conflicts of interests, and the manner in which the declaration of conflict of interests is presented. According to said law, those public authorities who should declare competing interests are persons holding public office⁴⁵ and public servants, including local public administration authorities and of the territorial-autonomous units with special status as well as their decentralized services.

Control over the execution and compliance with the abovementioned law on conflicts of interest is by the National Integrity Commission (Article 25), while the violations of the provisions of this law are being sanctioned in accordance with the Contravention Code and Criminal Procedure Code. The National Integrity Commission is in charge of verifying the assets and personal interests of public officials, resolving the conflicts of interest and detecting incompatibilities or violations of the law on conflict of interests. To carry out its mandate, the Commission works closely with the National Anticorruption Center and the Anticorruption Prosecutor’s Office when referring its findings for further criminal investigations.

In addition to the above, there are a number of other laws which address conflicts of interest:

- Law No. 132 of 17 June 2016 on National Integrity Authority.
- Law No. 133 of 17 June 2016 on Asset and Interest Declaration.
- Law No. 90-XVI of 25 April 2008 on Prevention and Combating Corruption (Article 15).
- Law No. 25-XVI of 22 February 2008 on the Code of Conduct for Civil Servants (Article 12).
- Law No. 158-XVI of 4 July 2008 on Public Function and Status of the Civil Servant (Article 25).

When it comes to the practical implementation of the provisions of the above laws, there are no single or unified guidelines. However, there are specific sector-related guidelines, one of them being the Practical Guide on Conflicts of Interest in Public Procurement.⁴⁶

A rigorous system of declaration of interests is a key element of any anti-corruption framework and its reform represents a significant milestone in the anti-corruption fight. Its successful implementation could bring benefits beyond that of simply detecting and preventing corruption. It could help increase citizen trust in local public administration authorities, and become a 'bridge' to sustainable reforms in the Republic of Moldova.

Example of case law

A former mayor of Ialoveni and member of the Democratic Party of Moldova was targeted in an inquiry related to some fake auctions. Back in 2014, the *Moldova Curată* portal found out that he, in his official capacity as mayor, signed several public procurement documents with "Ialpanis" SRL, managed by his son-in-law. The company supplied food for kindergartens in the city of Ialoveni. The Chisinau Court of Appeal decided that the then mayor had a conflict of interest and he was sanctioned with a fine of up to MDL 6 000 (€293). However, the fine was not paid because a too much time had passed since the conflict of interest had arisen.⁴⁷

3.4. EMBEZZLEMENT

Embezzlement is the illegal appropriation of money, goods or other resources by an official to whom they have been entrusted. This results in the loss of public money, which reduces the capacity of authorities to act in the interests of the public, resulting in worse services and outcomes for people. It also undermines public trust in government.

International standards

As one type of corruption, embezzlement is covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**⁴⁸ is the only legally-binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.⁴⁹
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**⁵⁰ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**⁵¹ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**⁵² aims to fight corruption involving officials from the EU or its Member States.

National context

Combating corruption has been on the top of the agenda for all Moldovan Governments since 2009, and is one of the main priorities of the 2014 Association Agenda between the EU and the Republic of Moldova. Moderate reforms, mostly legislative, were put in place up until 2016. In 2016 the Moldovan Parliament adopted important legislation aimed at combating corruption. However, it has not been sufficient to ensure that corruption is effectively prosecuted in the Republic of Moldova. Proper implementation of this legislation still remains a very serious problem.

Back in 2016, the National Anticorruption Center (NAC)⁵³ revealed and investigated 61 offenses of embezzlement by the heads of institutions and organisations. In May 2017, the NAC detained 19 persons suspected of massive embezzlement of EU financial aid through document fraud. These investigations are still on-going.⁵⁴

National legislation

The Criminal Code of the Republic of Moldova (Law No.985-XV of 18 April 2002) currently sets the provisions and sanctions related to embezzlement.

The misappropriation of foreign property (i.e. the misappropriation of the assets of another person) entrusted to the administration of an individual is punishable by a fine of up to 500 conventional units⁵⁵ or by imprisonment for up to three years, in both cases with or without deprivation of the right to hold certain positions or to practice certain activities for a term of up to three years. Where committed by use of an official position, as per Article 191(d), embezzlement is punishable by a fine in the amount of 500 to 1 000 conventional units or by imprisonment for two to six years, in both cases with the

deprivation of the right to hold certain positions or to practice certain activities for up to five years.

Example of case law

In April 2017, a Minister of Transport and two executives with private companies were arrested on corruption charges. It is alleged that the suspects exercised pressure on a company that won tenders in a project financed by the European Investment Bank (EIB) to delegate some of the business involved to companies affiliated with the suspects. The pressure is reported to have included threats of contract termination and being blacklisted. The defendant was sentenced to a year and four months of imprisonment in addition to a fine of MDL 35 000 (€171). The two executives were also found guilty of influence peddling.⁵⁶

3.5. FRAUD

Fraud is the use of deceit in order to gain an unfair or illegal advantage. Fraud erodes public trust in government and reduces the capacity of government to act. It often results in the loss of public money, which harms public services and the ability of governments to address the public's needs and aspirations.

International standards

As one type of corruption, fraud is covered by the following international standards and guidelines:

- The **United Nations Convention against Corruption**⁵⁷ is the only legally-binding universal anti-corruption instrument.
- It is supported by this **Technical Guide to the Convention**.⁵⁸
- The **Council of Europe's Criminal Law Convention on Corruption (ETS No. 173)**⁵⁹ aims to co-ordinate criminalisation of corrupt practices and to improve international co-operation in the prosecution of offences.
- The **Council of Europe's Civil Law Convention on Corruption (ETS No. 174)**⁶⁰ defines common international rules for effective remedies for persons affected by corruption.
- The **European Union's Convention against Corruption Involving Officials**⁶¹ aims to fight corruption involving officials from the EU or its Member States.

National context

Businesses in the Republic of Moldova identify corruption as their top concern⁶² with 40% of firms identifying corruption as a major constraint to business. *The Cost of Doing*

Business Study revealed little improvement in companies' perception of the business environment throughout 2010–15.⁶³ When it comes to the citizens, 67% of respondents expressed concerns about the high level of corruption in the Republic of Moldova.⁶⁴ The public services users' survey⁶⁵ revealed significant gaps between the expectations of recipients of administrative services and actual service delivery, including groundless delays in delivery, unavailability of complete and accurate information about services, the need for repeat visits to public institutions, and demands for informal payments.

In 2016, National Anticorruption Center officers examined 37 062 complaints and petitions from business and citizens, representing an increase of 4% compared to the same period of 2015. During 2013-2016, there was a growing number of frauds detected by the NAC, by approximately 14% per year. The level of corruption in the public sphere increased by 28%.⁶⁶

National legislation

The Criminal Code of the Republic of Moldova (Law No. 985-XV of 18 April 2002) currently sets the provisions and sanctions related to fraud, through Chapters VI and X.

Fraud is punishable by a fine in the amount of 200 to 500 conventional units, by community service for 120 to 240 hours, or by imprisonment for up to three years. When committed by use of an official position, fraud is punishable by a fine in the amount of 500 to 1 000 conventional units or by imprisonment for two to six years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for up to three years. Point (4) of the same Article states that *«the actions mentioned in paragraphs (1), (2) or (3) committed on a large scale shall be punished by imprisonment from 7 to 10 years with the deprivation of the right to hold certain positions or to practice specific activities for up to 5 years»*.

Example of case law

In 2016, the Head of the Republican Rehabilitation Centre for Disabled and War Veterans committed fraud amounting to MDL 687 000 (€33 766). In abuse of his position, he made transfers to the accounts of fake companies for major renovations to take place at the Rehabilitation Centre. In reality, those repairs have never taken place. He was found guilty of fraud,⁶⁷ for which a fine of 500 conventional units in the first case (Article 327, Abuse of Power or Abuse of Official Position, of the Criminal Code) and 300 conventional units in the second case (Article 329, Negligent Performance of Duties, of the Criminal Code) was determined as punishment.

According to Article 84, Application of Punishment in Cases of Cumulative Crimes, of the Criminal Code, a fine of 700 conventional units, amounting MDL 14 000 (€688) had to be paid. The person was not deprived from the right to occupy certain positions or to engage in certain activities. The total damage caused by the fraud was MDL 687 000 (€33 766) of which, after the trial court, only MDL 14 000 (€688) was paid by the defendant.⁶⁸

TRANSPARENCY

4.1. ACCESS TO INFORMATION

Access to information is the legal right for citizens to request and receive information from public authorities. It is often enacted by Freedom of Information legislation.

Access to information supports accountability along with informed public participation in decisions, and is therefore fundamental for the effective functioning of democracies.

International standards

Access to information is a fundamental component of a number of the conventions and standards against corruption listed elsewhere in this handbook. It also underpins a number of key UN human rights documents. The following specifically relate to Access to Information:

- The **Council of Europe’s Convention on Access to Official Documents**⁶⁹ affirms an enforceable right to information.
- The **Aarhus Convention**⁷⁰ grants rights, including access to information, in decisions concerning the environment.

National context

The right to information is guaranteed by the Constitution of the Republic of Moldova in Article 34.⁷¹ The Access to Information Law has been granting access to public data since 2000.⁷² However, there are numerous challenges still associated with requesting access to public information, including obstruction by government officials, refusals or delays in replying to requests for access to information, and purposefully incomplete or vague responses to requests for information.⁷³

The World Justice Project (WJP) Open Government Index 2015 is a good illustration in this regard. It tracks the experiences of ordinary people as they request information from the government.⁷⁴ In the Republic of Moldova, 44% of households said they were aware of such laws. Of the 5% of respondents who requested information from the government, 93% reported receiving it—of those, 42% were unsatisfied with the process.

The Republic of Moldova’s regulatory framework has great potential to address corruption, ensuring transparency, accountability and open government overall. However, much needs to be done until the Law is practically implemented. Efforts are being put in place by the Moldovan Parliament to improve access to information: “now,

the public authorities understand better than ever how important it is to guarantee the access to information, particularly because being opened to the society means having advantages of credibility, efficiency and responsibility".⁷⁵ The Republic of Moldova is currently implementing its 3rd National Action Plan on Open Government, based on the principles of access to information, data and transparency.⁷⁶

National legislation

The Law on Access to Information (adopted in 2000), restricts only public access to state secrets, confidential business information submitted to public institutions under conditions of confidentiality, and personal data, the disclosure of which may be considered interference in one's private life.⁷⁷

According to Freedom House report from 2016, compliance with the Law on Access to Information remains weak, as no state body has the full authority to enforce implementation. The People's Advocate (Ombudsman) in the Republic of Moldova has the authority to oversee the implementation of the law; however, this office lacks the capacity and the resources to exercise control.⁷⁸ Article 5 of the Law on Access to Information stipulates that the direct subjects of this Law are both Central and Local Public Administration Authorities.

Citizens' access to public information is not fully ensured because the law does not fully clarify the obligations of the public administration to proactively make it available and the implementation of the law is not monitored.⁷⁹

An important law - The Law on Libraries⁸⁰ - was adopted on 20 July 2017, after more than a year of deliberation and consultation. This new legislation enshrines public libraries' role as providers of free and inclusive public access to information and locally relevant community services. Article 17 describes the roles and responsibilities of the local public administration authorities under this law.

National guidelines

There is a guide for journalists on legal access to government information developed by Access Info Europe and the Network for Reporting on Eastern Europe. It provides a very detailed step by step guidance on access to information, data security, and how to submit a request for information among others.⁸¹

There is another guide for public servants and journalists developed in 2015 by the Moldovan Independent Journalism Center and Civil Rights Defenders, which provides a clear illustration of how the Law on Access to Information should be implemented, with specific tips for public servants and journalists.⁸²

Local public administration authorities have an important role to play in the implementation of "the right to know" at the local level. Hotlines, a user-friendly web page for the community, a spokesperson, surveys, information campaigns and information boards are just few examples. LPAs should consider the following tips when

developing a webpage to support access to information:

- Publish the decisions of the local council on the website of the LPA.
- Digitize as much local open data as possible, making it available on the web page (following the open data principles).
- Ensure that any content published on the webpage is applicable or relevant to members of the community.
- Provide citizens with the opportunity to make a request or contact someone for more information.
- Keep information up-to-date.
- Provide links/references to information available elsewhere, on other governmental or non-governmental websites (e.g. links to national platforms on e-services, national legislation, opportunities for studies, etc.)
- Include a comments section for feedback and provide 'feedback on feedback'.

Examples of best practice

Since 2012, the Novateca project by IREX,⁸³ has equipped 1 041 public libraries in each of the country's 35 administrative regions, with 21st-century technology tools, digital literacy learning resources, and the capacity to develop and offer community services that address local needs.

4.2. OPEN DATA

Open data is the publication of data and information in a format that may be freely used, modified and shared. The OECD states that open data is «*a set of policies that promote transparency, accountability and value creation by making government data available to all*». By making data generated through the activities of public bodies available, government becomes more transparent and accountable to citizens. It also supports business growth and the development of services centred on citizens.

International standards

Open data is a relatively new phenomenon without officially endorsed standards. However, a number of useful guidelines exist:

- The **Congress of Local and Regional Authorities of the Council of Europe's recommendation on Open Data for Better Public Services**⁸⁴ explains its importance for improving local democracy.

- The **United Nations Guidelines on Open Government Data for Citizen Engagement**⁸⁵ introduce policy guidelines and good practice recommendations.
- This **World Bank Toolkit**⁸⁶ starts from the basics, through to planning and implement, as well as avoiding common pitfalls.
- The **Five Star Open Data Deployment Scheme**⁸⁷ provides five steps to fully opening data, explaining the costs and benefits of each.
- The **International Open Data Charter**⁸⁸ sets out six principles for open, timely and interoperable government data.

National context

The Republic of Moldova embarked on a national open data initiative in 2011 as part of its Governance e-Transformation Agenda. The initiative has drawn support from the highest levels of government, with two Prime Ministerial directives and new legal provisions solidifying the country's commitment to opening up government data by default. Led by the e-Government Center, the initiative has spurred the release of 782 datasets from 39 institutions across the government. Today, there are 996 datasets on the portal and several apps based on this data. One critical factor contributing to the success of the initiative was the political support from the Prime Minister and State Chancellery. Other crucial elements have been the solid legal framework and the development of the open data portal (date.gov.md).⁸⁹

National legislation

The Republic of Moldova succeeded in developing a solid legal and policy framework to pave the foundations for its open data initiative. Open data principles were embedded in the Governance e-Transformation Agenda (Strategic Programme for Governance Technological Modernization (e-Transformation), approved in September 2011.

The passing of a law on Public Sector Information (PSI), in line with European Union directives, aimed to boost the open data agenda in government. To enforce this law, the Ministry of Information Technology and Communications developed methodological norms for implementation.⁹⁰ These set out the terms and conditions for accessing and reusing PSI, and developed an open data license for the Republic of Moldova's public data.⁹¹

In addition, the Republic of Moldova approved a national open data policy which aims to achieve open data by default in government. The policy brings clarity to the data publishing process, provides for machine-readable formats to be used for publication of data, and defines standards on data collection, archival and publishing. Each ministry and government agency is to embed an open data action plan in their sectoral governance e-transformation action plan, which is to support and expand the implementation of open data initiative in government.⁹²

National guidelines

A methodology for publishing open government data has been approved through a Government Decision (No. 701 of 25 August 2014). It sets clear guidelines for the publication of open data and is mandatory for Central Public Administration Authorities. It sets clear requirements for the open data portal, the nature of the data to be released via the portal, who has access to publishing the data, and rights and responsibilities of the persons involved in releasing the data. The methodology also specifies the format and frequency of the data publishing.

The guidelines were developed by the eGovernment Center of the Republic of Moldova back in 2014, based on the G8 Open Data Charter principles.⁹³

Examples of best practice

One of the first success stories of the Republic of Moldova related to open data is the BOOST government expenditure database, which was constructed on the basis of treasury data. The BOOST dataset presents initial, revised and executed amounts dissected in two levels of economic classification (articles and line items), two levels of functional classification, source of financing and administrative classifications broken down at central government (ministries, departments and individual spending units) and local level (districts, mayoralities and schools).⁹⁴ The Republic of Moldova was the first country in the world to publish the entire BOOST expenditure dataset in one consolidated Excel file. It has a very detailed expenditure database, including school level data on a yearly basis since 2005. It is annually updated, curated and disseminated by the Government of the Republic of Moldova.

Budget Stories, is a website providing budget information made available from the Moldovan Government, as well as from a number of other sources such as the World Bank.⁹⁵ It provides infographics and data visualisations of government spending and provides analyses about the use of public money.

4.3. DISCLOSURE: DECLARATION OF ASSETS AND CONFLICT OF INTEREST

Disclosure is the act of routinely publishing certain information, sometimes required by law. It can support anti-corruption measures by requiring the routine publication of assets and declarations of conflict of interest, for example. It can also be for more positive reasons, such as to support policy making, or by ensuring that the public are better informed and therefore able to contribute more effectively.

International standards

Disclosure is an important element in the conventions and standards against corruption listed elsewhere in this handbook. Of particular relevance are:

- The **Council of Europe's Recommendation on Codes of Conduct for Public Officials**⁹⁶ requires private interests to be declared.
- The **OECD's Managing Conflict of Interest in Public Service: Guidelines and Country Experiences**⁹⁷ provides practical instruments for modernising conflict-of-interest policies.
- The **OECD's Asset Declarations for Public Officials: A Tool to Prevent Corruption**⁹⁸ identifies the key elements of asset declaration systems.

National context

Since early 2005, the fight against corruption has always been part of government agendas and EU-Moldova action plans. As a result, the main national anti-corruption legislation was developed and approved before the signing of the Association Agreement, first as part of the EU-Moldova Action Plan (2005)⁹⁹ and later in 2010 under the Visa Liberalisation Action Plan (VLAP).¹⁰⁰ Another result of VLAP was the creation of the NIC,¹⁰¹ responsible for the control of the asset and interest declarations of public officials. Established in 2011,¹⁰² due to delays in the allocation of funds and the selection process for the leadership positions it only became functional in 2013.

The asset and interest declaration system is one of the keys elements of any anti-corruption framework and its reform represents a significant milestone in the anti-corruption fight. In February 2016, the Government and Parliament adopted a Priority Reform Action Roadmap (PRAR), a document comprising a list of urgent actions to be taken by authorities in order to overcome the political and socio-economic crisis the Republic of Moldova has been passing through. The adoption of the legislative package of integrity was among the priority actions. The new legislation provides mechanisms needed to turn the asset verification system into an efficient tool to prevent corruption. However, large uncertainty remains on the outcome of the reform.¹⁰³

National legislation

Despite general agreement that the system for verification of asset declarations should be improved, the reform met strong political resistance. New legislation introduces harsher sanctions for unjustified wealth and conflicts of interest, and ultimately would affect many dishonest public servants and dignitaries. The European Union and the World Bank reacted decisively to the resistance of the Moldovan Government, suspending financial assistance and requiring specific structural reforms, including one that is aimed at strengthening the oversight role and independence of anti-corruption institutions.

Thus, by mid-2016 the legislative package on integrity was passed by the Government and Parliament:

- Law No. 132 of 17 June 2016 on the National Integrity Authority,
- Law No. 133 of 17 June 2016 on declaration of the wealth and personal interests and
- Law No. 134 of 17 June 2016 on the amendment and completion of legislative acts, which are part of the package of laws on integrity.

The reform should have started after the new legislation entered into force in August 2016, and a reformed institution for controlling the asset declarations should have become functional at the beginning of 2017. It is only early November 2017, that members of the Integrity Council met to discuss the interim leadership positions of the NIA.

Currently, there is still confusion around the legal framework for asset and interest disclosure regarding the object and subject of declarations, the value of assets, etc. This still allows public officials to hide or transfer their wealth to relatives and under evaluate their assets. The lack of effective sanctioning mechanism with minor penalties is posing new challenges. Additionally, the NIC has been unable to impose administrative sanctions. All cases of violations were differed to the National Anticorruption Center (NAC), the General Prosecutor's Office, or the tax authorities for further investigations and sanctioning.

National guidelines

The National Commission of Integrity has the responsibility to control income and property statements of civil servants and ensures transparency by publishing them on its web page. The new legislation provides for an online submission and verification of asset and interest declarations (E-integrity system). It is expected that it will increase the efficacy and speed of verification procedures as the system will be connected to all public and private registers. The electronic submission of declarations will become mandatory beginning January 2018.

Examples of best practice

The asset and interest declaration is considered a powerful tool in preventing and combating corruption, when applied properly. At the same time, numerous cases with incomplete declarations, undervalued assets, and conflict of interests have been reported by investigative journalists in the Republic of Moldova throughout the past years. For years, civil society, media and private sector demanded free access to data about owners/founders of companies in the Republic of Moldova, to help trace and prevent acts of corruption, fraud, conflicts of interest.

One of the most ambitious examples in this case, is publishing data on beneficial ownership (i.e. who owns companies) in 2016. A dedicated portal has been put in

place (www.idno.md) which allows the users to search for data and look into the historic information of a company, as well as to generate infographics. Currently, there is data available on approximately 215 000 companies that have been registered in the Republic of Moldova since 1991. Data on the platform is being updated on a monthly basis, in an automated manner. In the long run, the team behind this portal aims to connect the data about the results of the public procurement to companies which have won the tenders throughout the years. Access to this portal is also available through the open data portal (www.date.gov.md).

4.4. EXTERNAL AUDIT

External audit is the regular, independent scrutiny of accounts and financial information to ensure that public money is used appropriately and effectively. External audits are undertaken in accordance with the relevant laws and rules of the country to support those external to government to hold it to account. External audit can also look beyond finances to assessing the performance of government against its own objectives, or in providing programmes and services.

International standards

- The **International Public Sector Accounting Standards**¹⁰⁴ focus on the accounting, auditing, and financial reporting needs of national, regional, and local governments, related governmental agencies, and the constituencies they serve.
- The **International Standards of Supreme Audit Institutions**¹⁰⁵ website contains a complete collection of professional standards and best practice guidelines for public sector auditors.
- A number of the conventions and standards for combatting corruption include provisions and clauses relating to external audit.

National context

The EU-Moldova Association Agreement includes commitments (Article 22) related to Public Administration Reform. Among the key areas for cooperation in the field of public finances are: budgetary policy, internal control, financial inspection, and external audit which regulates the budgetary and accounting systems, internal control, financial inspection and external audit, the fight against corruption and fraud.¹⁰⁶

In addition to this, Art 49 (e) of the same agreement puts in place external audit standards set internationally by the International Organisation of the Supreme Audit Institutions (INTOSAI).¹⁰⁷

National legislation

The Court of Accounts (CoA) is a Supreme Public Audit Institution, and acts in accordance with the provisions of the Law on the Court of Accounts No. 261 of 5 December 2008.¹⁰⁸ It exercises control over the formation, administration and use of public financial resources and public patrimony management, by conducting external audit in the public sector and ensuring compliance with international standards on best practices in the field of external public audit by the country. The Law guarantees the independence of CoA.

The Public Administration Reform Strategy for 2016-2020 sets out the vision of the Government, including the goals of “developing effective, accountable and transparent institutions at all levels” (SDG target 16.6)¹⁰⁹ and to “ensure responsive, inclusive, participatory and representative decision-making at all levels” (SDG target 16.7).¹¹⁰ External and internal audits are foreseen in the PAR strategy.

National guidelines

The Court of Accounts is assigned as the responsible institution for the external audit of the management of public funds in Article 13 of the “The Law on Budgetary System and Budgetary Process”. The CoA has successfully performed a number of audits in recent years.

There are several guides developed by the Court of Accounts:

- Guidance on the audit of state revenues;
- Guide on key indicators for evaluation of the audit activity, including in the monitoring of the execution requirements and implementation of the Court of Auditors’ recommendations;
- Guidance on the strategic planning process of performance audits; and,
- Quality Framework Guidelines.¹¹¹

Examples of best practice

The EU Twinning Project PIFC¹¹² started in November 2011 through institutions of Sweden (Financial Management Authority) and the Netherlands (The National Academy for Economy and Finance). The project had four main components: (1) enhancing the capacity of the Central Harmonisation Unit in the MF to oversee the implementation of PIFC in the Republic of Moldova, (2) updating the legislative and normative framework for PIFC, (3) strengthening Financial and Managerial (FMC) control and (4) strengthening Internal Audit Capacity.

Some of the main results of the project include the review of the operational manual for Internal Audit, development of a new methodological norm for IT systems audit, development of a new methodological norm on sampling techniques, development of a new methodological norm about the role of the auditor in relation to fraud and

corruption, and development of options for the certification of internal auditors. Similarly, the CoA Twinning project created opportunities for enhancing the knowledge and performance of internal controllers/auditors of the government through capacity building, study visits, and sharing of experiences.

4.5. CODE OF CONDUCT

A code of conduct sets out specific standards of professional behaviour expected in a host of situations and provides public officials with guidance for handling them. In addition, codes of conduct bring in transparency and public accountability in governmental operations.

Codes of conduct are often confused with codes of ethics, which establish basic principles to which public servants must abide, such as integrity, selflessness and openness, among others. A code of conduct applies and implements the code of ethics to the particular circumstances of an institution.

Well-designed codes of conduct and ethics will help meet the growing expectations from the public, business leaders and civil society, and places an onus on governments to ensure high ethical standards amongst public officials and elected representatives. As such, they can support the development of trust between the public and government institutions and officials.

International standards

- The **Council of Europe's Recommendation on Codes of Conduct for Public Officials**¹¹³ and the **European Code of Conduct for the political integrity of local and regional elected representatives**¹¹⁴ are the reference texts for local and regional authorities in Europe for ensuring political integrity.
- This **OECD paper on Implementing Effective Ethics Standards in Government and the Civil Service**¹¹⁵ provides practical mechanisms for institutionalising high standards of ethical integrity for elected officials and civil servants.
- The **Council of Europe's Abridged Handbook on Public Ethics at Local Level**¹¹⁶ provides a high-level overview of good practice in public ethics.

National context

A civil servant in the Republic of Moldova must follow the Code of Conduct approved by the Government back in 2008. The Code also compels state officials to rationally use public means, state property, and work time, to strictly observe laws, be impartial, professional and loyal. This Code has the potential to tackle corruption and increase

transparency and accountability in the public sector if fully embraced by civil servants and with compliance mechanisms in place.¹¹⁷

This code is not applicable to mayors and other persons of public dignity. It is applicable only to the civil servants from municipal administration, but not to the local elected representatives. In their case, the Law on the Status of Persons of Public Dignity¹¹⁸ and the Law on the Status of Local Elected Representatives apply.¹¹⁹ However, these laws have no specific provisions on the conduct of the local elected representatives.

National legislation

Discussions about the need for a code of conduct for public servants in the Republic of Moldova took place in 2004. It took four years to develop, consult, and approve a Law on the Code of Conduct (Law No. 25 of 22 February 2008). The goal of the Code is to establish norms of conduct for the civil service and inform citizens about the conduct civil servants should have for the purpose of:

- Improving the quality of the civil service;
- Ensuring a better administration in promoting the public interest;
- Contributing to prevention and elimination of bureaucracy and corruption in the public administration; and,
- Creating an environment that would enhance citizens' trust in the public authority.

National guidelines

Back in 2013, a methodological guide was developed by the Moldova State Chancellery in order to provide practical support on the implementation of the current code. The guide provides clear examples on ways a public servant shall be guided by the following principles: *Legality; Impartiality; Independence; Professionalism; Loyalty*.

The guide has a separate chapter on the legal implications on non-compliance with the provisions of the Law.¹²⁰

The methodological guide on the implementation of the Law on Code of Conduct for public servants from 2008 was published by the State Chancellery of the Republic of Moldova in 2013. It covers all the provisions of the Law, and includes a compliance related chapter. It is a guidebook which aims to support both public servants and citizens to understand the value of the Code of Conduct in the public sector.¹²¹

Despite limited resources, LPAs can fully embed the principles of the Code of Conduct into everyday activities:

- LPAs can organise mini-training sessions on the Code of Conduct, based on the Guide, and ensure that both LPAs staff and members of the Local Council are familiarized with the provisions of the Code.

- A mini guide, with most essential aspects, can be compiled and handed in to all staff of the LPAs, and an ongoing reinforcement can take place once in few months.
- The Code can be published online, on the LPAs web page.
- Metrics and improvement – LPAs can assess the effectiveness and improvement opportunities against some baseline data and targets. Have a list of indicators to help measure progress. Communicate about the results to the citizens.

In addition to the above, a guide for the local elected representatives has been elaborated with support of development partners, aiming to address one hundred questions related to local good governance in the Republic of Moldova.¹²²

Examples of best practice

According to the authors of the *Guide on the Code of Conduct*, the guide itself is considered to be a best practice, given its simplicity and relevance for any public servant. It has been distributed in several hard copies in all Central and Local Public Administration Authorities across the country. The guide is used as a reference during a training program on the Integrity of a Public Servant, delivered on a regular basis (as part of the state order) by the Academy for Public Administration. In 2017 alone, there have been four training courses organised for CPAs and one for LPAs (based on the Government Decision No. 1400/2016). However, there is not currently any monitoring process in place to follow the compliance of the public servants with the Code of Conduct.

CITIZEN PARTICIPATION

5.1. COMPLAINTS MECHANISMS

Complaints mechanisms allow citizens to provide feedback to public authorities on the standards of services they receive. They provide an important accountability mechanism which allow civil servants and elected officials to identify where public services are being delivered ineffectively or inefficiently. When such mechanisms deal with complaints quickly, they can help to create the conditions for increased trust. If used proactively, complaints mechanisms can also help governments to identify new ideas and increase citizen participation.

International standards

There are no specific international standards for complaints mechanisms relating to public services. However, there are a number of civil society guidelines and handbooks which are helpful. See for example:

- The **Danish Refugee Council's**¹²³ handbook describes how to setup and manage a complaints mechanism.
- The **World Vision** overview of the tools and mechanisms used by development agencies to receive complaints.¹²⁴
- The **Transparency International** note on good practice in establishing community complaints mechanisms.¹²⁵

National context

The Republic of Moldova's highest-ranking position in the World Justice Project¹²⁶ is with regard to "Complaint mechanisms" (27th out of 102 countries). This dimension measures whether people are able to bring specific complaints to the government about the provision of public services or the performance of government officers in carrying out their legal duties in practice, and how government officials respond to such complaints. It also measures whether people can challenge government decisions before another government agency or a judge.

When it comes to accountability in the public sector, it is important to mention that the People's Advocate institution has not reached full operational capacity, while citizens' right to compensation for damage caused by maladministration or omissions is not fully ensured. Among the weaknesses related to service delivery are:

- Public services delivered to citizens are not based on the same standards across all public institutions and no institution is responsible for defining and ensuring minimum quality benchmarks in service delivery;
- A comprehensive legal framework to protect citizens against maladministration and unjustified administrative decisions does not exist; and
- Users with special needs face many challenges in accessing public services and obtaining information about services.¹²⁷

National legislation

In order to ensure high quality public services, on 26 April 2017 the Moldovan Government established its Public Services Agency. The Public Services Agency was set up in accordance with the provisions of the Public Administration Reform and action plan on reform of public service modernization for 2017-2021. It is based on a one-stop shop principle for providing public services and ensuring their digitization, including the streamlining of operational processes and the reduction of costs incurred by citizens.¹²⁸

The Law on Petitioning is another important document, which is addressed separately in this Handbook.

The Republic of Moldova does not have a separate law/policy document regulating citizens' complaints, but LPAs should establish complaints mechanisms to receive feedback on the standards of services they receive.

National guidelines

The good governance component of the Government Program for 2016-2018 aims to introduce minimum quality standards for public services and monitoring indicators for quality assessment, as well as to introduce tools for the submission of complaints regarding delivered public services.¹²⁹

Example of best practice

The Citizen Report Card survey,¹³⁰ conducted for the first time in the Republic of Moldova in 2010, provides comprehensive information on services delivered by 30 public institutions. The survey was conducted in 173 locations including 12 urban communities and 161 rural communities. At the 95% confidence level, the survey has a margin of error of $\pm 1.7\%$. Key issues investigated by the survey were the level of utilization and means of accessing and contacting public institutions, perceptions of the quality of service provision, and difficulties faced by citizens in accessing services.

The study has revealed that there are levels of dissatisfaction in the delivery of public services which should be further investigated if improvements are to be made. Qualitative studies would be useful to identify further the causes of such

dissatisfaction, as well as to identify in further detail how the public feels that service provision might be improved.

LPA's can use the methodology of this study and conduct regular Citizen Report Card surveys at the local level, to be able to identify gaps/irregularities and areas for improvement.

5.2. OPEN POLICY MAKING

Open policy making is a broad term describing policy development which is transparent and participatory. It describes a way of making policy and decisions which draw on the latest analytical tools and are interactive in nature. There is no one-way to do open policy making: different policy decisions will need different approaches.

International standards

Although there are no specific open policy making standards, the following provide a useful starting point:

- The **Council of Europe's Guidelines for civil participation in political decision making**¹³¹ sets out standards for engaging with citizens and civil society.
- The **OECD's Guiding Principles**¹³² support the development of a culture of openness.
- The **OECD's Focus on Citizens: Public Engagement for Better Policy and Services**¹³³ explores how to put open policy making into practice.
- The **OECD's Observatory of Public Sector Innovation**¹³⁴ lists useful toolkits and resources.
- The **Open Government Partnerships Guide**¹³⁵ and **Toolkit**¹³⁶ provide an extensive range of support.
- Both **Australia**¹³⁷ and **the UK**¹³⁸ have both produced useful **toolkits**.

National context

The Republic of Moldova, as one of the members of the Open Government Partnership since 2012, has been using the term "open policy making" in relation to the open government agenda and the co-creation of national action plans on open government. This agenda brings a whole new culture of openness in government (both at the central and local levels).

Open policy making is about being open to new ideas, new working methodologies,

new insights and new evidence. Moreover, it brings citizens into decision-making processes along with sectoral experts and professionals. As a result, the quality of the decisions made is improved and responds to citizens' needs, which in turn generates a greater sense of ownership and internal pressure for change, along with increased trust (if the government has the appropriate feedback mechanisms in place).

Open policy making goes deeper than transparency and public consultation: it brings together the right tools, approaches and techniques in order to be able to listen to a diverse group of citizens, irrespective of their age, social status, or religion, among others.

National legislation

The Law on Transparency in Decision-Making Processes of 2008 has been modified and amended. As a result, it had been supplemented by a Government Decision on consultation mechanisms with civil society on decision making of 8 August 2016. The current government decision sets the framework for consultation, describing the step by step tasks, roles and responsibilities of the authorities, including deadlines, consultation methods, and transparency of the adoption of decisions. It also recommends that local public administrations update their internal procedures related to the transparency of the decision-making process.¹³⁹ The Article 16/1 of the law on transparency in decision making mentions that for the infringement of the respective law, the persons bear disciplinary and administrative responsibility.

National guidelines

There are no specific guidelines related to the implementation of the above law. However, back in 2014, as part of the National Action Plan on Open Government for 2014, one of the commitments related to the development of a guide on citizen engagement (based fully on the law on transparency in decision making from 2008). It was a civil society driven commitment and the guide is available as a Google site, which allows it to be updated at any time.¹⁴⁰

Examples of best practice

One of the most successful platforms, which aims to increase the culture of open and participatory policy making is the National Participation Council (NPC).¹⁴¹ It has been established by the Government of Moldova as an advisory body and is working according the Government Decision No. 11 of 1 January 2010. The council consists of 30 members, representatives of organised civil society groups. The member mandate is granted for two years. The National Participation Council intends to facilitate involvement of all interested stakeholders in designing, implementing, monitoring, evaluating and updating strategic planning documents. The NPC mission is to contribute to the adoption of public policy decisions which would correspond to the interests of society.

The council aims to develop and promote strategic partnership between public authorities, civil society and the private sector to strengthen participatory democracy in the Republic of Moldova. It facilitates stakeholders' communication and participation in identifying and achieving strategic priorities for national development and creates the institutional framework and capacities to ensure the full involvement of stakeholders in the decision-making process. The Council has played a great role in promoting the open government agenda, through its sub-group on open government/e-Government.

LPAs in the Republic of Moldova can use the model of the Council and adapted to the local level policy making. The local councils for participation could bring together representatives of different stakeholder groups, address specific sector related challenges, and accordingly, have a two-year mandate for its members. Members would be selected on an open call basis, while selection can be done both by a committee, and partly by the community.

5.3. PARTICIPATORY BUDGETING

Participatory budgeting began in Porto Alegre, Brazil in the late 1980s and has spread worldwide. It provides a way for community members to have a direct say in how public money should be spent. It creates opportunities for engaging, educating, and empowering citizens. It can also promote transparency, which in turn can help reduce inefficiency and corruption.

International standards

Although there are no specific standards for implementing participatory budgeting, the following provide a useful starting point:

- The **OECD Policy Brief No. 22**¹⁴² provides a series of policy recommendations for how key stakeholders can contribute to successful participatory budgeting.
- The **World Bank's book *Participatory Budgeting***¹⁴³ provides an overview of the underlying principles, analyses current practice and includes seven in-depth case studies.
- The **UN Habitat's 72 Frequently Asked Questions about Participatory Budgeting**¹⁴⁴ explores how to implement participatory budgeting.
- The **UK's Participatory Budgeting Unit has a useful list of resources and toolkits.**¹⁴⁵
- The **Subnational Open Budget Survey Questionnaire**¹⁴⁶ of the International Budget Partnership sets out a range of metrics for measuring the openness of local government budgets.

■ The **Principles of Public Participation in Fiscal Policy**¹⁴⁷ of the Global Initiative for Fiscal Transparency.

National context

Back in 2011, the Moldovan Government opened up millions of rows of government expenditure data to the public, but the information remained inaccessible to most citizens because they did not know how to interpret large amounts of data. Raw data is used mostly by experts and policymakers in their research, while most members of the public often do not see the direct benefits of open data and how it affects their daily lives. Participatory budgeting started being more actively implemented as a mechanism for citizen engagement, transparency and accountability during the past two years and evidence shows that more and more communities across the country are piloting it.

National legislation

Even though there is no specific regulatory framework in place which would regiment the implementation of participatory budgeting in the Republic of Moldova, it fits within the existing framework and does not require additional legal adjustments.

More specifically, Law No. 436 of 28 December 2006 on local public administration¹⁴⁸ stipulates that citizens should be consulted: (1) around issues of primary importance for the community (it can be done through a referendum), (2) around local/specific issues which preoccupy most of the population (through consultations, public hearings, discussions/debates, under the existent legal framework), (3) on the decisions of the Local Councils'. Article 43 (v) of the same law stipulates that public consultations will be organized for draft decisions of local interest which can have an economic, environmental or social impact, as well as on other problems of importance to the local population.

National guidelines

Currently, there are no specific guidelines regarding participatory budgeting in the Republic of Moldova. However, there is a general acknowledgment that the quality of life and comfort of the ordinary citizens depends on the quality of the budgeting processes (planning, public consultations, implementation, monitoring and evaluation), be it at central or local levels. Given the importance of the local budget document, its development, preparation and execution should be done ensuring maximum transparency.

According to an IDIS Report,¹⁴⁹ seven LPAs (24.1%) used their web pages and nine LPAs (31%) have used other ways to publicly consult on their draft budgets for 2016. All LPAs should make their draft budgets publicly available for consultation, including by publishing on the LPAs web page, posting it on other local platforms, and organising local discussions/debates, presentations. Another important aspect is for LPAs to publish the updated budget document and indicate the feedback received during the consultations. This will generate more trust and more engagement of the population

in the long run. It is equally important to publish reports about the execution of the budgets (i.e. progress reports).

Example of best practice

Back in June 2016, Local Public Administration Authorities from Ungheni invited citizens to participate in meetings as part of a “Spending efficiently the local budget” initiative, with the purpose of consulting citizens regarding the problems they face in their respective sector and to initiate a process of solution identification. As a result of these meetings, seven initiative groups were established, which later engaged in a process of participatory budgeting and facilitated an open consultative process with the LPAs of Ungheni. Round table meetings were organised with representatives of civil society, while each initiative group had to formulate a concrete solution for one of the problems they identified. The selected solution/project idea would receive MDL 270 000 (€13 400).¹⁵⁰

5.4. PUBLIC CONSULTATION

Public consultation is a formal, often legally required, process for citizens and other stakeholders to give their views at key stages of the policy process. It can be both online and offline, or a mixture of both. Its main goals are to improve efficiency, transparency and public involvement in important decisions. Done in a timely and effective way, public consultation will increase the quality of decision making, improve compliance, reduce enforcement costs and support greater public trust in decision making.

International standards

Although there are no specific standards for implementing public consultations, the following provide a useful starting point:

- The **OECD Background Document on Public Consultation**¹⁵¹ defines consultation and provides a summary of consultation tools.
- The **Council of Europe’s Guidelines for civil participation in political decision making**¹⁵² set out the different types of civil participation in decision making.
- The **Council of Europe’s Recommendation Rec(2001)19 on the participation of citizens in local public life**.¹⁵³

National context

Citizen’s trust in administration is one of the core aspects of democracy. It depends on people’s personal experiences of fairness of administration, but also of opportunities to

take part in and influence decision-making processes. The quality of citizen engagement depends very much on the quality of public administration and the capacity of public servants to engage with citizens meaningfully (e.g. on public policy reforms, innovations in different sectors, strategies, etc.). The key pillars of this new engagement paradigm are: being citizen-centred, open, transparent and collaborative; acting as an enabler of innovation and technology, and being accountable to the citizens. Citizen consultation processes should comply with both national legislation dealing with this issue as well as internationally recommended practices.

A recent analysis on the transparency of the raions (Local Public Administrations, level II) in the Republic of Moldova reveals that from 29 districts, only 1 has carried out public consultations for all draft decisions, with the announcement about the consultations being placed on the LPAs web page. 12 districts (41.8%) have not organised public consultations, while in 16 districts (55.2%) have partially organised consultations in 2015. While LPAs share announcements on their traditional information board, this does not ensure participation of all stakeholders in the decision-making process. More than that, web pages of LPAs do not provide a synthesis of the recommendations received as a result of consultations and feedback is completely missing.¹⁵⁴

National legislation

According to Article 3 of the Law on Transparency in Decision-Making, public authorities will consult citizens, associations, and concerned parties about drafts of legislative and administrative acts. The Law is applicable both to Central and Local Authorities, including local public administration authorities: local councils (of village, commune, town, municipality, district significance), mayors of villages (communes), towns (municipalities), chairpersons of districts, decentralized public services, and institutions of local significance.

The Government Decision No. 188 of 3 April 2012 on the Official Websites of Public Administration Authorities, requires an increase in the level of transparency of public authorities and access to public information through official websites, and establishes mandatory minimum requirements for the official websites of public authorities. Moreover, individual ministries' websites should have a page dedicated to "decisional transparency" where draft laws are published for consultation. From the date of their publication, there is a deadline of 10-15 days for comments on draft legislation.

At the local level, Law No. 436 on Local Public Administration regulates transparency in decision-making (Article 8). Law No. 780 on Legislative Acts and Law No. 317 on Normative Acts of the Government and other Central and Local Administration provide rules for public authorities to consult with interested authorities and agencies on draft laws, and all draft laws and decisions of the government are subject to mandatory anti-corruption expert examination by the National Anticorruption Center.

The Government created an open portal (particip.gov.md) to increase participation in decision-making. The Government and ministries publish the texts of draft laws and the corresponding Informative notes on this site.

National guidelines

Although some government agencies provide online guidelines on transparency in the decision-making process, or develop internal rules concerning the provision of transparency in the decision-making process, there is not a government manual outlining the participatory process in the review of draft laws and policies.

In line with this, one of the commitments of the National Action Plan on Open Government for 2014 related to the elaboration of guidelines¹⁵⁵ that could help any public servant follow the main stages of the decision-making preparation processes based on the Law on Transparency in Decision Making (2008). Given that there is no one-size-fits-all model for citizen engagement, these guidelines also serve as a concise and practical reference tool for the successful implementation of citizen engagement by both central and local public administration authorities. The guide¹⁵⁶ provides nine stages of the decision-making preparation process, guiding principles for each stage and what this means in practical terms.

Examples of best practice

As part of the “Introduction of the principles of open governance in the inclusion of citizens in the decision-making process in Moldova project,¹⁵⁷ an online interactive guide (also mentioned in Open Policy Making section above) was developed to support the Government of Moldova in increasing the transparency in the decision-making. The guide provides a set of tools and templates for civil servants in implementing the Law on transparency in decision-making.

The Moldovan Law on Transparency of Decision Making¹⁵⁸ contains principles and procedures to be followed in the daily work of public authorities and contributes to improving the quality of the decisions drafted and approved, accountability of authorities to citizens, and to increasing the support of citizens for the policies approved and actions undertaken. The Government Decision for the implementation of the Law¹⁵⁹ provides more detailed and practical information for citizen engagement. However, the decision is not exhaustive and it does not contain sufficient specific guidance for civil servants during the consultation process. Thus, the Citizen Engagement website covers existing methodological gaps by providing all necessary instruments for conducting public information and consultation throughout all stages of decision-making set in existing legislation. It lists the most important government and civil society institutions, specifies responsibilities for concerned civil servants, reviews legislation and develops tools and templates, as well as provides guidelines used by other governments and organisations.

A two-day intensive training programme was delivered to more than 90 representatives of the public sector (including representatives of LPAs), civil society organisations and independent experts, and provided a platform for learning and sharing practical mechanisms and tools for citizen engagement.

Provisions of the Guide can and should be followed by LPAs in their daily activities.

5.5. PUBLIC PETITIONS

Public petitions enable citizens to raise issues with public authorities. The number of signatures collected can indicate the level of support for the issues being raised. They aim either to raise the profile of the issue, or also to demand that specific actions are taken. Petitions are often inspired by civil society activity, but they are increasingly submitted through official, often online, platforms whereby petitions with a defined number of signatures will receive an official response.

International standards

- The **OECD's Promise and Problems of e-Democracy**¹⁶⁰ provides a section on the value and challenges of establishing an online petitioning platform.

National context

Article 52 "Right to Lodge Petitions"¹⁶¹ of the Constitution of the Republic of Moldova, stipulates that: (1) All citizens shall be entitled to refer to public authorities by way of petitions formulated only on behalf of the signatories. (2) Legally established organizations shall have the right to lodge petitions exclusively on behalf of the bodies they represent.

Citizens of the Republic of Moldova have started to use this right more often in the past few years. The number of petitions received by the State Chancellery reached 2,060 in the first semester of 2017, which is 7.4 per cent more than the same period of 2016.¹⁶² 2 007 petitions have been addressed, while 53 are still under review. The number of electronic petitions increased too, from 206 in 2016, to 228 in the first half of 2017. The data indicates that the largest share of petitions was addressed to ministries and other central administrative authorities (1 341 petitions), the State Chancellery (557), and local public administration authorities (302). Among the key issues addressed were education (339 petitions), remuneration of work (313 petitions), law enforcement (226), material aid (186) and pensions (135 petitions).

National legislation

The Law on Petition (No. 190 of 19 July 1994) regulates the process of examining the petitions of the Moldovan citizens addressed to state bodies, enterprises, institutions and organisations in order to ensure the protection of their legitimate rights and interests. The public authorities (institutions) examine the submitted petitions and provide the response within the time limit set by the law.¹⁶³

National guidelines

The Moldovan Law on Petitioning prescribes the right of individuals to request certain actions from authorities.¹⁶⁴ A petition under this law means any claim, complaint, or

suggestion addressed to relevant public bodies, including a preliminary application contesting an administrative act or failure.

The official body to whom petitions are addressed have the obligation to examine petitions; ensure the restoration and recovery of any infringed rights under law, and compensation for damage caused; and ensure the execution of decisions taken after examining petitions. The official body has the right to reject or accept the preliminary application of the petitioner and, where appropriate, cancel or modify the administrative act. A higher authority is entitled to reject the preliminary petition and instruct a lower authority to accept or cancel the administrative act, in whole or in part (Article 12 of the Law on Petitioning).

The appropriate bodies generally examine petitions within 30 working days and, while in the case of those that do not require additional examination, without delay or within 15 working days of registration.

Up to 90 working days is allowed for cases of petitions that include international attributes, provided that, within 30 working days, the petitioner receives a response that informs the petitioner about the measures taken to resolve the subject of the petition. If the petitioner does not agree with the response, she or he has the right to challenge the decision in the court within 30 days (Article 8).

Example of best practice

In April 2017, an e-petition portal was launched,¹⁶⁵ which allows citizens to submit petitions to Parliament online and monitor how their petitions are examined in real time. There are currently no progress reports available to understand the nature of petitions submitted to the Parliament, or the problems addressed.

Riscani District enables e-petitions online via its website.¹⁶⁶ However, there are no reports on the progress made, number of citizens using this opportunity, or main challenges addressed.

CONCLUSION

Local government plays a critical role for the well-being of citizens, delivering services, and providing the first point of contact between people and public administration. The proximity with citizens can help ensure that public authorities and services are truly responsive and accountable, improving people's lives and their trust and confidence in local institutions. However, the very qualities that make local and regional governments so important to citizens can also make it more prone to corruption.

Local governments in Eastern Europe are taking important strides towards more open and inclusive decision-making. As well as being important qualities of local democracy, transparency and civic participation can be tools to help deliver effective public services, combat and prevent corruption, and build citizens' trust in government.

The mechanisms outlined in this handbook present a variety of ways in which local and regional authorities can prevent corruption, reduce its risks, and develop effective and accountable institutions at all levels. Other reforms, such as protection of whistleblowers and support for independent media and civil society, are also critical to building open government, public ethics and accountability. The most effective approach to rooting out corruption is often through reporting by public officials, the media and civil society, who need to feel confident that they will be listened to and protected.

The Congress of Local and Regional Authorities of the Council of Europe is committed to supporting local governments in their efforts to improve the quality of local democracy, prevent corruption, increase ethics and public accountability, and promote transparency and citizen participation.

ENDNOTES

¹ For the purpose of this publication, the term “public officials” refers to elected representatives, public authorities and civil servants (either at local, regional or national level) who hold a legislative, administrative or judicial office, and to any person exercising a public function, including for a public agency or a state-owned enterprise.

² *Preventing Corruption and Promoting Public Ethics at the Local and Regional Level in Eastern Partnership Countries*, European Committee of the Regions, 2017. Available at: <https://cor.europa.eu/en/documentation/studies/Documents/Preventing-Corruption.pdf>

³ Control of Corruption Index - An index constructed by the World Bank as one of the six composite World Governance Indicators to capture corruption on a scale of -2.5 to +2.5, where the higher the index the less the corruption indicated.

⁴ Control of Corruption Index 2015.

⁵ Law No. 132 of 17 June 2016 on the National Integrity Authority.

⁶ Public opinion barometer, from 28% during the last quarter of 2014 to 7% in 2015, for the same period of the year.

⁷ Main findings and recommendations from SIGMA assessment of public administration in the Republic of Moldova. Available at: http://eeas.europa.eu/archives/delegations/moldova/documents/press_corner/20160512_1_en.pdf

⁸ Cretu V., “Open data in Moldova: striving to be open by default”. *This case study was supported by the Partnership for Open Data, funded by the World Bank*. Available at: <https://theodi.org/case-studies/case-study-a-profile-of-open-data-initiatives-in-moldova>

⁹ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=368355>

¹⁰ <http://www.oecd.org/corruption/oecdantibriberyconvention.htm>

¹¹ <https://www.iso.org/iso-37001-anti-bribery-management.html>

¹² <https://www.oecd.org/daf/anti-bribery/44884389.pdf>

¹³ *People and Corruption: Europe and Central Asia*, Global Corruption Barometer 2016. Available at: <https://www.transparency.org/whatwedo/publication/7493>

¹⁴ *Moldova Corruption Report*, GAN, Business Anti-corruption portal. Available at: <http://www.business-anti-corruption.com/country-profiles/moldova>

¹⁵ Law No. 90 of 4 April 2008 on Prevention and Combating of Corruption. Available at: <http://lex.justice.md/md/328131/>

¹⁶ The Criminal Code of the Republic of Moldova, Chapter XV, Crimes committed by officials, Articles 324 and 325. Available at: https://www.unodc.org/res/cld/document/criminal-code-of-the-republic-of-moldova_html/Republic_of_Moldova_Criminal_Code.pdf

¹⁷ Buiucani Court of Chisinau, sentence of 27 June 2016, Case No. 14-1-15217-23122015.

¹⁸ State Distinction ‘Order of the Republic’, conferred through the Decree of the President of the Republic of Moldova in 12 December 2013.

¹⁹ *Moldova Corruption Report*, GAN, Business Anti-corruption portal, available at <http://www.business-anti-corruption.com/country-profiles/moldova>

²⁰ <https://www.unodc.org/unodc/en/treaties/CAC/>

²¹ <https://www.unodc.org/unodc/en/treaties/CAC/technical-guide.html>

²² <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173>

²³ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174>

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- ³¹ http://www.noi.md/md/news_id/44241
- ³² *Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences*, Organisation for Economic Co-operation and Development, 2003, page 24. Available at: <http://www.oecd.org/gov/ethics/48994419.pdf>
- ³³ <https://rm.coe.int/16806cc1ec>
- ³⁴ <http://www.oecd.org/gov/ethics/managingconflictinterestinthepublicservice.htm>
- ³⁵ <http://www.oecd.org/gov/ethics/enhancingintegrityinpublicprocurementchecklist.htm>
- ³⁶ <https://www.unodc.org/unodc/en/treaties/CAC/>
- ³⁷ <https://www.unodc.org/unodc/en/treaties/CAC/technical-guide.html>
- ³⁸ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/173>
- ³⁹ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174>
- ⁴⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:I33027>
- ⁴¹ <https://rm.coe.int/conflicts-of-interest-at-local-and-regional-level-rapporteur-david-wil/1680758cd9>
- ⁴² Moldova 2016 Human Rights Report, United States Department of State, Bureau of Democracy, Human Rights and Labor. Available at: <https://www.state.gov/documents/organization/265662.pdf>
- ⁴³ <http://lex.justice.md/md/%20327989/>
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- ⁴⁵ As provided in the annex to the Law No. 199 of 16 July 2010 on the Status of Persons Holding Public Dignity Positions.
- ⁴⁶ Conflict of interest in public procurement, Guide for practitioners in the Republic of Moldova, March 2016. Available at: <http://www.serviciilocale.md/lib.php?l=ro&idc=71&t=/Publicatii-i-resurse/Achizitii-publice/&year=&month=3>
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- ⁵¹ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/174>
- ⁵² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:I33027>
- ⁵³ The National Anticorruption Center (CNA) reports to the Moldovan Parliament and its legal framework was redesigned to only target corruption cases. The Center has competency in both preventing and combating corruption. It also performs the tasks of the Secretariat of the Monitoring Group for National Anti-Corruption Strategy implementation. Among others, the National Anticorruption Center is the responsible body for conducting anti-corruption assessment of laws and by-laws, as well as for coordinating corruption risk assessment processes in public institutions. The institution undertakes integrity testing in respect of public officials.
- ⁵⁴ <http://www.cna.md/libview.php?l=ro&idc=5&id=1574&t=/Mass-media/Comunicate-de-presa/Rezultatul-perchezitiilor-19-persoane-sunt-banuite-in-dosare-de-delapidare-a-fondurilor-europene>
- ⁵⁵ Conventional unit (C.U.) is used when calculating penalties for tax crimes.

- ⁵⁶ Moldova Corruption Report, August 2017.
- ⁵⁷ <https://www.unodc.org/unodc/en/treaties/CAC/>
- ⁵⁸ <https://www.unodc.org/unodc/en/treaties/CAC/technical-guide.html>
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- ⁶¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:l33027>
- ⁶² In both the World Economic Forum Global Competitiveness Report (2016–17) and the World Bank-European Bank for Reconstruction and Development Business Environment and Enterprise Performance Survey (2013).
- ⁶³ *The Cost of Doing Business Study (2016 Edition)*, National Association of Home Builders (NAHB), 2016, Washington DC.
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- ⁶⁶ 2016 Report of the National Anticorruption Center (pages 10-11).
- ⁶⁷ Under Article 327 paragraph 2 lit. a) and c) and Article 329 paragraph 2 lit. b) of the Criminal Code.
- ⁶⁸ Iurie Gatcan, 2015, PhD Thesis on “Corruption as a social phenomena and mechanisms for anticorruption”, page 98. Available at: http://www.cnaa.md/files/theses/2016/24368/iurie_gatcan_thesis.pdf
- ⁶⁹ <https://rm.coe.int/1680084826>
- ⁷⁰ <https://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>
- ⁷¹ Constitution of the Republic of Moldova, adopted on 29 July 1994.
- ⁷² <http://lex.justice.md/md/311759/>
- ⁷³ <https://freedomhouse.org/article/moldova-stakeholder-submission-universal-periodic-review>
- ⁷⁴ Measures whether requests for information held by a government agency are granted (assuming the information is a public record). It also measures if these requests are granted within a reasonable time period, if the information provided is pertinent and complete, if requests for information are granted at a reasonable cost, and if a request was granted without having to pay a bribe. This dimension also measures whether people are aware of the right to information and whether relevant records – such as budget figures of government officials, ombudsman reports, and information relative to community projects – are accessible upon request.
- ⁷⁵ By former Speaker of the Parliament, Marian Lupu, in a conference on ‘Free Access to Information: Legislation, Practice and Prospects’ in September 2017. Available at: <http://www.moldova.org/en/moldovan-parliament-to-improve-access-to-information-18706-eng/>
- ⁷⁶ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=368355>
- ⁷⁷ <http://lex.justice.md/md/311759/>
- ⁷⁸ <https://freedomhouse.org/article/moldova-stakeholder-submission-universal-periodic-review>
- ⁷⁹ Main findings and recommendations from SIGMA assessment of public administration in the Republic of Moldova. Available at: http://eeas.europa.eu/archives/delegations/moldova/documents/press_corner/20160512_1_en.pdf
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- ⁸⁷ <http://5stardata.info/en/>
- ⁸⁸ http://opendatacharter.net/wp-content/uploads/2015/10/opendatacharter-charter_F.pdf
- ⁸⁹ www.date.gov.md
- ⁹⁰ Government Decision No. 886 of 8 November 2013 regarding the Regulation of enforcing the Law No. 305 on public sector information reuse.
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- ⁹³ <https://theodi.org/case-studies/case-study-a-profile-of-open-data-initiatives-in-moldova>
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Transparency and citizen participation are key tools in the development of good local governance. Both help create the conditions for citizens to understand and evaluate the decisions which the government is taking on their behalf, as well as make their own needs and views known to government as it takes those decisions.

Effective transparency and participation can help to drive out corruption and government malpractice. They are also more positive tools as they help produce the conditions for increased trust. Finally, they also help governments to draw on the skills and experience of citizens to enable better decision making and the delivery of more effective public services.

To that effect, this handbook aims to support local and regional authorities in their efforts to make communities more open, ethical and citizen-oriented. It provides practical guidance on transparency policies and citizen participation mechanisms, includes a concise assessment of the most prevalent corruption risks in the country and incorporates actual examples of best practices.

The European Union is a unique economic and political partnership between 28 democratic European countries. Its aims are peace, prosperity and freedom for its 500 million citizens in a fairer, safer world. To make things happen, EU countries set up bodies to run the EU and adopt its legislation. The main ones are the European Parliament (representing the people of Europe), the Council of the European Union (representing national governments) and the European Commission (representing the common EU interest).

<http://europa.eu>



EUROPEAN UNION

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. The Congress of Local and Regional Authorities is an institution of the Council of Europe, responsible for strengthening local and regional democracy in its 47 member states. Composed of two chambers - the Chamber of Local Authorities and the Chamber of Regions - and three committees, it brings together 648 elected officials representing more than 200 000 local and regional authorities

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