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AT(2015)111

20.08.2015

COMUS (Community-led Urban Strategies in Historic Towns)

Assessment Report

Republic of Moldova

Chişinău - 2015



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This document was produced within the framework of the Joint Project EU/CoE “Community-led Urban Strategies in Historic Towns”. The content does not necessarily represent the official position of the European Union and/or the Council of Europe.

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1. Overview of the country's administrative system

According to the constitution adopted in 1994, the Republic of Moldova was declared a semi-presidential republic, but after the changes in political system in late 2000, it became a parliamentary republic, where the act of governance is divided among the legislative, executive and judicial power. The President is elected by Parliament for a term of four years. The head of the Government is the Prime Minister proposed by the President and approved by Parliament. Local governments are made up of district and village councils, council presidents and mayors elected by the citizens once in four years.

Moldova is organized in 32 districts and two regions with special status - Gagauz Yeri Territorial Administrative Unit and the separatist region - Transnistria¹. The Moldavian capital is the city of Chişinău. The national legal framework also includes existence of local autonomy and decentralized administrative system.²

The Parliament is responsible for passing laws and policies in all areas, and the Government is the main executive institution.

The Constitution of the Republic of Moldova details that protection and conservation of historical and cultural monuments is the duty of every citizen. However, the Constitution does not refer in any way to the obligations of the state in this area.

At central level, the protection and management of cultural and natural heritage is the responsibility of the Ministry of Culture and, respectively, the Ministry of Environment. Sustainable building and regional development, construction and quality in construction works are the responsibility of Ministry of Regional Development and Construction. The Transport and Road Infrastructure Ministry is responsible for the development and modernization of roads in the Republic of Moldova. Tourism is managed by the Tourism Agency which is subordinated to the Government.

At regional and local levels of government, the specific responsibilities concerning these areas belong to the secondary tier of government, the local public authorities (regional and municipal councils) and to those with level one (city and village councils, level two being district councils with multiple cities and villages). However, the national legislation on local authorities does not specify their responsibilities as concerns cultural heritage.

Actions need to be taken to improve collaboration between ministries and institutions in connection with cultural heritage:

- Improving the legislation on immovable cultural heritage by bringing it in line with the relevant internationally accepted standards;
- Improving the co-ordination of intra-sectoral and inter-sectoral policies, particularly in the areas of sustainable development, construction, tourism, cultural heritage protection, etc.
- Integrating accurate and adequate provisions on cultural heritage in relevant areas of the legislation, outlining very clearly the powers, on the one hand – today some of them are diffuse, overlap or are even contradictory (in civil engineering legislation) – and, on the other, establishing interaction mechanisms and ways to settle and overcome any practical problems identified in the process.
- Defining clear and sufficient responsibilities for first and second level local authorities.
- Supplementing the Constitution with specific rules on state obligations in the field of cultural heritage.

¹ Law on Territorial-Administrative Division of the Republic of Moldova no. 764-XV, 27.12.2001.in the Official Journal No. 16/53, 29.01.2002.

² Law on Administrative Decentralization no. 435-XVI, 28.12.2006.in the Official Journal No. 29-31, art.91, 2007.

2. Strategies and policies for sustaining development including sustaining the cultural heritage

The National Development Strategy "Moldova 2020" was approved by the Parliament on 11.07.2012. The area of culture, including cultural heritage, is not among the eight development priorities of the country.

Under these circumstances, the Ministry of Culture drafted the *Culture Development Strategy "Cultura 2020"*, approved by the Government of Moldova on the 29th January 2014. It is the first strategic document on culture in Moldova since the declaration of its independence in 1991. One of the four overall objectives of the Strategy is "*Safeguarding national cultural heritage*". The basic actions required to reach that objective include, among others:

- defining the national regulatory framework on the protection of cultural heritage by adopting the Historical Monuments Protection Law, which contains the first detailed national provisions including the protection of historical towns/built areas. The necessary amendments to the Criminal and Administrative Codes of the Republic of Moldova can then be made.
- completing the national institutional framework for the protection of cultural heritage - by creating the national institution responsible for the record, documentation and inventory of built cultural heritage, including the protected construction areas/historic towns.
- creating a market for services of preservation/restoration of cultural heritage built by: forming a national system of training in the field; by ensuring competition in the provision of services such as design, operation and maintenance/restoration works based on such criteria as professionalism, knowledge and expertise in the field.
- integrating the cultural heritage protection system into the administrative-territorial units.

The strategy does not highlight/establish separate actions for protected built areas and historical towns.

To solve the existing problems it is important to promote the view of built cultural heritage, including urban heritage of historical towns, as an important resource for sustainable development of communities, and not as an "embarrassing obstacle to progress" ("progress" is usually associated with wide streets, large urban constructions of glass and concrete, which "inevitably" should replace buildings from historic centres). That perception was ingrained during the last decades of the Soviet era, and encouraged a system by which built heritage was demolished.

Overcoming the situation in the Republic of Moldova is possible by building a new system to protect cultural heritage through its integration into urban development plans of settlements (setting boundaries, buffer areas, management plan etc.), according to the principles outlined in the relevant documents (books, conventions, resolutions) of the Council of Europe and UNESCO and good practices.

3. Development of sustainable tourism strategies

In Moldova, the national authority that develops and promotes state policy in the field of tourism is the Tourism Agency, a central authority subordinated to the Government. The national regulatory basis underlying the Agency's activity is the tourism law.

According to the law, cultural and natural heritage form the resource upon which tourism development in Moldova is based.

In accordance with the relevant³ legislation of the state policy in the area, tourism is considered a priority for the national economy and the state supports tourism activities through planning and protection of touristic heritage by creating conditions for its sustainable development. Tourism law does not refer directly to the country's cultural heritage, which is included in the concept of "anthropic tourist resources." In turn, anthropic tourism resources belong to the so-called "heritage tourism" which is a "*set of elements underlying conduct in tourist activity in a given territory, including natural and anthropic tourism resources, material and technical basis, general infrastructure, tourism infrastructure and goods for tourist consumption*".⁴

Economic tourism activities should be developed within the rational limits for using existing resources and efficient exploitation.⁵ The main funding sources comprise: state budgets for promotion; local businesses' revenue; domestic and foreign investments; and, specific loans.

In order to develop and promote domestic tourism in the Republic of Moldova, national tourism public areas that take into consideration public value are evaluated according to a set of criteria: geographical importance; landscaping; concentration of resources; and, tourism functionality. These are transferred to state ownership and are managed by the Ministry of Culture.⁶ The legislation enables local businesses to reside in tourist areas and provides for financial assistance for them, in particular for young people. *The means of this financial support are, however, not specified. Furthermore, the legislation does not set out a system for protecting tourist attractions managed by private economic operators and nor does it establish clear regulations for use of a cultural heritage asset. The law also fails to stipulate penalties for improper management or destruction/damage to cultural heritage and natural resources.*

In Article 25, the law provides for a Special Fund for tourism promotion and development, which consists of assets collected from patenting the personnel working in tourism, tourist receipts from lotteries, revenues from advertising and editorial work and other sources not prohibited by law. There is no policy stipulated for fundraising from the activity of travel agencies, hotel and catering services or any access fees for cultural heritage sites. In effect, this fund is non-existent. No implementation mechanism has been developed. All tourism funding is directly included from the state fund through the National Fund for Regional Development. The law also provides for the establishment of National Tourist Areas, which have not been actually implemented, the main obstacle being the provision stating that all land in these tourist areas will be state-owned.

The *Automated Information System "Tourism Registry"* has been drafted, and includes all the objectives identified in the draft document "*methodological standards for the evaluation of the local administrative units in terms of their tourist potential*". Both documents guarantee a punctual mapping of the touristic attractions of the potential of tourist attractions but do not provide an integrated strategy for enhancing the tourist potential of urban or rural areas, an approach which builds on the concept underlying the *Tourism development strategy*. In other words, the local administrative units are assessed in terms of the existence of tourist sites and not on their tourist potential.

The development of certain sites, mainly religious ones, such as monasteries, churches or Orthodox cave settlements has caused much *in situ* damage with the use of modern building

³ Article 4, Law on the organization and development of tourism in the Republic of Moldova No 352-XVI of 24.11.2006

⁴ Ibidem, Article 3

⁵ Ibidem, Article 9

⁶ Ibidem, Article 28

materials and botched interventions, and the heritage value of such attractions have been irreversibly affected. The church "Adormirea Maicii Domnului" from Butuceni and the monastic complexes from Saharna and Țipova serve as examples. A more coherent impression on the impact of tourism development can be seen in the village of Butuceni itself, where some of the effects are: a considerable increase in land prices in the area; the demolition of the existing traditional houses replaced by a number of boarding houses and tourist facilities constructed in a pseudo-ethnic style, mostly kitsch, using modern materials.

In 2014, the Government of the Republic of Moldova approved the Tourism development strategy 'Tourism 2020' and the Action plan for its implementation during the period 2014-2016. The document shows a great diversity of tourist attractions located at short distances from the major cities, especially listing archaeological sites from different historical periods, but also makes reference to the existence of six medieval fortresses made of stone, over 1,000 protected architectural monuments and about 50 Orthodox monasteries. The sites identified are perceived as individual tourist assets separated from a broader urban context but connected to historic cities. The strategy and the action plan have no provision for highlighting or valuing the quality of the cities. However, as concerns its objectives, the Tourism strategy includes a number of restoration projects for buildings with protected monument status in the Single Programming Document for 2013-2015. These will be funded from the National Fund for Regional Development. The 2014 report⁷ includes, as historical-architectural rehabilitated monuments, the "Pommer Mansion" in the village of Țaul, Dondușeni Region and the historical heritage building "Manuc-Bey Mansion" in the city of Hâncești. It is relevant that this Single Programming Document for 2013-15 is the sole functional instrument of government for financing interventions on historical monuments or their areas of protection, its provisions being included in the "Enhancing tourist activity" chapter. The main objection is that the planned interventions target renovation/rehabilitation services, rather than conservation/restoration works, thus deterring from the cultural heritage area and from historical authenticity.

For the implementation period of the Action Plan for 2014-2016, the development of an act is proposed on the construction and use of tourist signs in collaboration with the Ministry of Transport and Road Infrastructure. The aforementioned act will be applied to all future projects of tourist infrastructure.

In terms of the cultural and natural heritage, the Strategy has a specific objective of improving the legal framework in accordance with the requirements of the tourism market and to capitalize on tourist potential by promoting Moldova's image internationally. The main measures proposed in order to improve the regulatory framework refer to its updating and compliance with the European standards:

The development of the legal framework on the assessment of the tourist heritage and tourist zoning will provide for the development and approval of the Tourism Registry (...) the development of an evaluation mechanism for the tourist potential of the local administrative units based on the Tourism Registry and subsequently, the development of the country's criteria of tourist zoning and inclusion of tourist areas in the National Spatial Development Plan (establishing certain criteria for highlighting areas with a higher concentration of tourist resources, delimiting the highlighted areas, conditions/facilities for the operators investing in the highlighted areas, for the local public administration authorities that use the highlighted areas

⁷ Report on the implementation of the national strategy of regional development for 2014

etc.)⁸. However, a clear mechanism to support investment/tax incentives for the operators investing in tourist attractions is not specified.

Other provisions of the strategy focus on increasing the quality of tourist services, regulating the economic activities and their promotion mechanism, diversifying tourism categories and intensifying international collaboration. There is also a need to identify and capitalize on the investment opportunities in order to attract national and international funding to implement projects promoting tourism.

The action plan also provides for inter-ministerial collaboration for specific projects, including with the Ministry of Culture, so that the potential for tourism nationally is included in the international circuit. According to these provisions, the immovable cultural heritage will be included in new tourist routes, two of which are international. The organization of workshops on cultural topics and of handicraft outlets are mentioned as ways of promoting the built heritage.

The most important recommendation in this area is to include in Law No 352 of 24.11.2006⁹ the specific requirements for monitoring and controlling tourist activities within the sites protected under the legislation on heritage conservation. It is also important to include in the legislation the liability for contravention in cases of abusive use of protected assets as a result of intensive tourism development (constructions not complying with the specificity of the area, inadequate developments, pollution, damages etc.). To achieve these objectives, it is necessary to foster institutional collaboration at local and national level for an integrated development of tourism in historic areas.

4. Levels of administration for cultural heritage

The central public authority responsible for the development and promotion of state policy in the field of intangible cultural heritage is the Ministry of Culture. The Ministry of Culture is responsible for: developing and promoting relevant legal acts; preparing Intangible Cultural Heritage Registers (architectural and archaeological); the central organization of the process/activities for identifying, studying, inventory management, preservation/restoration; and, enhancement of built cultural heritage assets. The Responsible subdivision of the Ministry (Directorate of Cultural Heritage) currently has two (2) employees in the field: a specialist responsible for state policy in archaeological heritage and a specialist in charge of state policy in built cultural heritage. By 2005, the Ministry's special subdivision had five (5) employees in the area of built cultural heritage. In addition to the Ministry, the National Council of Historic Monuments is also active (specialized body representing scientific-methodical authority of the state in protecting historical monuments; endorsement and expertise of documents/documentation relating to the reference field) and the National Archaeological Commission (advisory body representing scientific authority in the field of archaeological heritage protection; endorsement and expertise of the documents / documentation relating to the reference).

The Institutional tool of the Ministry of Culture responsible for the practical implementation of state policy in archaeological heritage is the National Archaeological Agency, responsible for preventative archaeology (5 TFE and 10 part-time posts). It was created in 2012 under the Law on protection of archaeological heritage (adopted in 2010).

The institutional instrument of the Ministry of Culture responsible for inspecting the legal estate in the built cultural heritage is the Monuments Inspection Agency, which is responsible for

⁸ Chapter IV, pt.72, Tourism Strategy 2020

⁹ Law No 352 of 24.11.2006 on the organization and development of touristic activities in the Republic of Moldova (Official Gazette No 14-17, 2007)

inspecting the country's monuments and cultural heritage estate (with 6 FTE posts). It began its practical activity in 2009, operating under a government decision adopted in 2006. From 2013, the Agency's operation is based on a special provision inserted in the Monument Protection Act.

The Ministry of Culture lacks an institutional instrument on for implementing the state's policy on protecting the built cultural heritage. This was abolished abusively in the last decade of the twentieth century. Restoring or recreating it is on the agenda of the Ministry, as part of the government's action plan and Culture 2020 strategy.

At a local level, the responsibility to protect the intangible cultural heritage lies with the first and second level local public authorities, through the district Cultural Departments/Sections. These bodies are responsible for: preparing the Registers of district/municipal immovable cultural heritage; preparing special programs for financing the preservation/restoration of monuments; and the explanation/information of first level local public authorities on relevant legal provisions, etc. However, for intangible cultural heritage issues architecture directorates/departments at district/municipal level are directly involved, issuing permits for design works and constructive interventions on intangible cultural heritage assets.

The first-level local public authorities are responsible for drafting and approving the for the design works specifications for Urban development plans. Second-level local public authorities are responsible for drafting and approving the for the design work specifications for Urban landscaping plans, and respectively, the inclusion of sustainable development plans for immovable cultural heritage assets situated on the administered territory in these specifications.

The Ministry of Regional Development and Construction is the public authority responsible for: drawing up plans for administrative-territorial units; landscaping and urban plans of cities and towns; reflecting the immovable cultural heritage assets (including the protected construction areas/historic towns); and, integrating internationally accepted regulations on the protection and their sustainable management (issues reflected ambiguously/unclear legislation and thus without practical solving or partially resolved). Currently, the Ministry is responsible for granting A4 architects qualification level, which offers holders the right to provide design services in the field of interventions to cultural heritage assets (without requiring the applicant theoretical and practical skills in the field, in accordance with international best practice).

Legal acts in force in the Republic of Moldova do not provide for the existence of bodies responsible for co-ordinating the activities of state authorities or institutions with general or partial/sectoral powers in the field of immovable cultural heritage.

There are no local bodies/structures responsible for of the rehabilitation/regeneration of historical cities/towns nor is there any legislation that reflects/specifies the repertoire for the activities concerned. As concerns the international legal requirements for cultural heritage, the management of such sites is provided for only in the few cases where these sites are managed by cultural institutions with their own specific operating regulations (although these are in practice not guaranteed due to a lack of financial resources), such as for example: 1. The District of National Museum of Ethnography and Natural History in Chişinău or 2. Cultural-Natural Reservation from Orheiul Vechi territory.

The financial resources available may cover only a very small extent the existing and forthcoming needs of immovable cultural heritage sites.

Recommendations: To improve/streamline management structures for the implementation of state policy in protecting cultural heritage assets (including the protected construction areas - historic cities), the following is required:

- To develop and improve the national regulatory framework for protecting, inventory, keeping, maintenance, conservation/restoration, management of intangible cultural heritage and related areas identified (planning, construction, local public authorities).
- To restore staff of Ministry of Culture in the field of intangible cultural heritage, which will reinforce the institution's capacity to fulfil its obligations in this field.
- To restore the institutional framework of the Ministry of Culture in the area of built cultural heritage (through the formation of the National Institute of Historical Monuments), which will enable the Ministry to fulfil its obligations in the field of practical implementation of legal provisions on built cultural heritage.
- Supporting the second-level local public authorities (Cultural Divisions/Sections) by recruiting staff specialized in immovable cultural heritage and up-to-date obligations in that field. Securing the status of historical towns (built protected areas) with specialized subdivisions in the protection and their sustainable management.
- Ensuring that the Monuments Inspection Agency has enough employees to fulfil the tasks defined by law.

5. Staff resources and training requirements

In Moldova there are a number of educational institutions and accreditation centres that train specialists in architecture, archaeology, history and other fields related to urban heritage. They usually cover only part of the spectrum of skills required for effective rehabilitation projects and focus on sectorial areas.

The Technical University of Moldova (Department of Architecture), which trains specialists in architecture, does not have a programme focused on heritage conservation and urban rehabilitation. The existing course on Restoration is not on a par with other courses taught within the department, and results in a negative impact on the perception of monument protection training of university graduates. Also, there are no programs for bachelor or master degrees for integrated urban management in general and historical cities in particular.

Other universities educating historians, archaeologists, engineers, managers, etc. have in most cases outdated academic curricula that no longer correspond to the current market requirements. There is little or no collaboration between educational institutions with different profiles, which leads to isolation by lack of professional personnel and constructive communication between them.

In addition to higher education institutions, there are independent centres or subordinate state structures providing advice and staff training in the areas concerned (see Chapter 4). The main weaknesses identified in the field of teacher training are: outdated curricula; absence of international standards; poor quality of practical training of graduates; and, lack of qualified staff for training. The poverty of training in this area is due to the lack of tradition in the conservation, rehabilitation and restoration. The knowledge and skills gained by professionals during their work in the Restoration Complex have been mostly lost after its abolition in 1995, and also due to death or emigration of qualified personnel. It is also noteworthy that no rules or regulations have been adopted by the Ministry of Culture for the execution of conservation and restoration¹⁰ works. There are currently 119 certified architects and 26 historic buildings regulation inspectors of Architecture on the "historical architectural heritage". There are no specialists on "Building reliability" or "Building infrastructure", so full responsibility passes to architects and project

¹⁰Regulation on technical and professional certification of specialists with activities in construction, approved by Government Decision No 329 of 23.04.2009.

evaluators from the Architecture department, resulting in a negative impact on the quality of the intervention works on the monuments. There is no training or professional certification scheme for a site supervisor and technician for architectural and historical heritage.

Initiatives involving project management, feasibility studies, accessing and managing funds to be passed on monuments and cultural heritage sites are private in nature and are mostly managed by people specialized in cultural heritage. Within the limits of available budget, those initiatives co-ordinated by specialists from agencies within the Ministry of Culture can be mentioned. National geospatial databases were populated with references by these same agencies and the same specialists are dealing with collecting and documenting built cultural heritage, dissemination and public engagement.

In archaeology non-invasive techniques are not in use, indeed they do not even exist. Such work only takes place in co-operation with foreign experts. However, metal detectors are widely used. In 2014, the Association of Historians of Moldova purchased a magnetometer. Also, specialists guide themselves in many cases by satellite images so as to identify possible archaeological sites.

In the field of architectural monuments there are no accredited restoration specialists. There are no engineers and architects specialized in restoration or intervention projects in protected areas. The Ministry of Regional Development and Construction issues licenses for qualifying architects on architectural and historical heritage, without criteria consistent with international practices. On a practical level these architects propose interventions that are not in accordance with international restoration practices, and as such, these projects are mostly rejected by the National Council of Historical Monuments. The same situation is also found in urban and spatial planning projects, that are ultimately approved by the Ministry of Culture.

Craftsmen skilled in traditional building methods and materials are becoming scarce and are extremely difficult to find. Vernacular Traditions for processing stone, wood and iron are only described in ethnographic research papers. Few experts can still be found in the national museums which specialize in restoration and conservation.

Overall, it is possible to identify two trends concerning the level of professional qualification of professionals and authorities responsible for management of protected historic areas:

1. There is satisfactory professional competence in technical fields found in relation to the classical approach to urban planning that involves statistical records and data.

2. In relatively recent fields such as integrated management and use of mechanisms and modern technologies for tracking and planning, there is a lack of professional qualifications. The same situation is also encountered in the fundraising, use of modern financial instruments, promotion at local community-level and involvement of interest groups.

In these conditions, there is a need for measures to improve the situation of the teaching staff of national and local government and the professionals responsible for the management of built urban heritage, with the following objectives:

- To develop a conceptual framework and practical knowledge in the field of integrated management of built cultural heritage and urban environment.
- To increase the supply of education and training programmes in the fields of urban management, preservation, restoration and rehabilitation, engineering, archaeological research, including architects working in the private sector.
- To organize study visits, vocational training and exchange of experience assisted by external experts to encourage better management control skills and improve professionalism.

- To increase the provision of consultancy services for the authorities, to strengthen administrative capacity and local economic development.
- To create partnerships between educational institutions, public authorities, businesses and the civic sector.
- To encourage the exchange of experience and technical skills in international co-operation programmes in the field of integrated urban development, rehabilitation of heritage, tourism development, etc.

6. Rights of the private sector and third sector (physical and legal persons)

In addition to tangible and intangible property, historic buildings are subject to public and private property rights.¹¹ Exercising property rights over monuments is provided by the laws of the Republic of Moldova.¹² National legislation stipulates very clearly that privatization of the sites of national cultural heritage is prohibited,¹³ transactions will be declared void and liabilities will be applied under the Civil Code.¹⁴ The state reserves the right of pre-emption for purchase or sale contracts of monuments,¹⁵ but this stipulation has often been, violated or simply ignored. Although the national legislation in force stipulates cancellation of alienation transactions of historic monuments carried out in breach of the law,¹⁶ there is no precedence in the application of this measure.

However, the legislation governs the most general status of intangible cultural heritage properties privately¹⁷ owned and the principles of their use.¹⁸ So, in order to maintain the integrity of the monument, the owner, regardless of its legal status, is obliged to take steps to protect it, without clearly stating the measures to be taken.¹⁹ It is the duty of central and local public authorities to supervise the implementation of measures for the protection of monuments.²⁰ In this situation, historical building owners should be encouraged to exploit them without endangering their authenticity and integrity.

“(2) The right to use state monuments as intangible property shall be exercised by Parliament, district, town and village councils.

[...]

(6) The right to use monuments that are private property shall be exercised by the owner”.²¹

In order to prevent acts of destruction, the Monuments Protection Law binds monument owners to put insurance in place, but we have no examples of practical application of this provision:

¹¹ Article 7, Law on property, 22.01.1991.

¹² Article 8, Ibidem.

¹³ Article 17(4), Law on culture. in the Official Gazette, 5.08.1999 No 83-86, p. I, Article 401.

¹⁴ Article 9(2), Monuments Preservation Act No 1530-XII, 22.06.1993.

¹⁵ Article 9(1), Ibidem.

¹⁶ Article 9(2), Ibidem.

¹⁷ Ibidem, Article 7(6).

¹⁸ Ibidem, Article 9(1). Monuments which are privately owned can be sold, donated or disposed of with the compulsory notification of state bodies for the protection of monuments. On purchase-sale operations, the state has the right of preemption. See Articles 13-16.

¹⁹ Ibidem, Article 13.

²⁰ Ibidem, Article 15.

²¹ Article 7 (2), Ibidem.

“Real estate monuments owners are required to sign insurance contracts, indicating the value of the monuments and land from their protection areas established by experts.”²²

Most people believe that at present, it would be better if monuments were in state ownership as otherwise they are at risk of being destroyed, or the monument excluded from the economic interests of individuals and legal entities. A proof of this is the assessment campaign of architectural monuments included in the National Register of Chişinău, conducted by the Inspection Agency of Restoration of Monuments, which found that in the period 1993-2010, 77 monuments were demolished, there were illegal architectural interventions that damaged the authenticity of monuments and their protection areas in 155 cases and 17 historic buildings are in an advanced state of dilapidation.²³

Moldavian laws stipulate that historical monuments, archaeological artefacts and undiscovered treasures are protected.²⁴ Natural and legal persons who discover archaeological ruins that can be defined as monuments during construction work, will have to cease their activity and notify the local authorities in the relevant territory as well as the Ministry of Culture in writing within 48 hours whereupon the asset is taken under protection and/or storage.²⁵ The landowner on whose land the archaeological remains, including human remains,²⁶ were discovered is obliged to ensure their integrity and, if necessary, to allow research and conservation activities,. However, state institutions will organize conservation and restoration works²⁷ and will compensate the landowner for damages in money or land passed into state ownership²⁸.

Actions needed to enhance control over privately-owned heritage sites and regulation of individual and legal initiatives in this area:

- State institutions must ensure compliance with the law;
- information campaigns should be conducted on the rights, duties of citizens regarding cultural heritage;
- educational programmes should be promoted in this area;
- private sector organizations should be more involved in decision-making processes to strengthen public-private partnerships based on criteria of transparency and responsibility.

7. Financial assistance and rehabilitation agencies

The current legislation of RM does not provide the possibility for financial support from budgetary sources or other public funds to NGOs and private owners of built cultural heritage and, respectively, for any interventions on their built cultural heritage. In order to improve this situation, the Ministry of Culture tried to establish a National Fund for the conservation/restoration of monuments by following the example of other countries (as well as the example of other ministries in the Republic of Moldova, e.g. the Ministry of Ecology, which has the *National Ecological Fund*, or the Ministry of Regional Development and Construction,

²² Article 39, Monuments Preservation Act No 1530-XII, 22.06.1993.

²³ Ion Ştefăniţă (ed.), *Cartea neagră a patrimoniului cultural al municipiului Chişinău*, Chişinău, 2010, p. 4.

²⁴ Article 32, Land Code of the Republic of Moldova, the Moldavian Law Nr. 828-XII from 25th of December 1991.

²⁵ Article 20, Monuments Preservation Act no. 1530-XII, 22.06.1993.

²⁶ Article 32, Land Code of the Republic of Moldova No 828-XII, 25.12.1991.

²⁷ Article 25, Monuments Preservation Act No 2-XII, 1530.

²⁸ Article 32, Land Code of the Republic of Moldova No 828-XII, 25.12.1991.

which has the *National Regional Development Fund*), but the idea was not supported by the state financial institutions.

To date, no strategies have been established in RM for the recovery/refurbishment of historic towns (the built historical environment) and no funds have been set aside for recovery or refurbishment works.

No national programs have been created in RM to fund works relating to the conservation, restoration and recovery of built cultural heritage and of historical towns/protected built areas.

There are no known cases of public-private partnerships in RM connected to built cultural heritage, which can be cited as examples of good practice.

There have been a few cases of international fund-raising for conservation, restoration and recovery of built cultural heritage.

Under the project entitled 'Hist. Urban. Integrated revitalisation of historical towns for purposes of sustainable polycentric development' (2008-2009), funded by the European Commission and implemented by the Association Plai Resurse, intervention work was carried out on the exterior of the A. Mimi urban villa architectural monument, located in the centre of Chisinau. However, this project cannot be said to be a good example because the intervention on the monument did not employ best practice (e.g. cement plaster – rather than lime plaster – was used). As cement plaster's chemical composition and physical characteristics are inconsistent with the parameters of the historical materials used on the monument, it has already cracked and started falling off, causing ongoing damage to the original limestone plaster.

The most successful case is that of the medieval fortress of Soroca. The Regional Council of Soroca applied for and was granted EU funds under the Joint Operational Programme Romania - Ukraine - Republic of Moldova 2007-2013 for the restoration and recovery of one of the most valuable monuments of fortified medieval architecture in the Republic of Moldova: Soroca Fortress. Since RM lacks both specialised design engineers for the design of intervention work on fortified architecture monuments, and specialised civil engineering companies to conduct intervention work on built cultural heritage, the contract was awarded to a design engineering company and a civil engineering company from Romania, due to its practical experience in the relevant area.

The Law on the Protection of Monuments, as adopted by the Parliament of the Republic of Moldova in 1993, expressly provided for a series of measures to provide financial support to owners of monuments. However, the mechanism for such support has not been created. In the following years, Parliament removed all of the relevant provisions from the text of the law by successive decisions.

In order to improve this situation and bring national law in line with international good practice as regards state aid for private owners of protected built assets, the Ministry of Culture prepared a draft law on the protection of historical monuments. The draft law proposed the creation of a national fund for the conservation/restoration of monuments, to create a system to support private owners of monuments, by granting preferential grants, exemptions, aid for a share of restoration and recovery works on built assets designated as monuments, etc.

Suggestions for improvement:

- establish the legal framework required for the financial aid (in terms of taxes and duties) granted to owners and managers of built cultural heritage assets;
- increase the budget for activities relating to the protection, conservation and restoration of heritage sites.

- Fundraise from international programmes.

8. Legal texts for cultural heritage

The Law on the Protection of Monuments was adopted in 1993. It set out to regulate the entire cultural heritage field, with an emphasis on built cultural heritage. Along with this legislation, the Parliament also adopted the Register of State-Protected Monuments in the Republic of Moldova (published only in 2010). Although the law provided for the adoption of a series of regulations meant to strengthen its practical use, virtually none of them were drafted. One of the weaknesses of this law was the very general and sometimes ambiguous provisions relating to most issues concerning the protection of cultural heritage, as well as the lack of provisions for establishing or referring to institutional instruments to ensure the practical implementation of the relevant duties of the Ministry of Culture. This fact 'enabled' the closure, in 1990, of the national service for preventive archaeology, as well as the unit responsible for keeping the Registry of Monuments, registering, inventorying, studying and conserving and restoring monuments. Generally, the entire system protecting the immovable cultural heritage inherited following the collapse of the former USSR was destroyed and nothing new was created in its place.

In 1990, a few laws were adopted to regulate the management of certain components of moveable cultural heritage. Thus, in 1992 the Law on the Archive Fund of the Republic of Moldova was adopted, in 1994 the Law on Libraries and in 2002 the Law on museums. In 1999 the Law on Culture was adopted.

As from 2001, RM joined a series of international treaties on issues of cultural heritage, among which were 11 conventions, ratifying them under special laws (Convention for the Protection of the Architectural Heritage of Europe and the European Convention on the Protection of the Archaeological Heritage [2001], the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage [2002]) etc. However, although they are binding regulatory acts pursuant to the provisions of the Constitution, no action has been taken to implement them.

At the end of the first decade of the 21st century, the issue of recreating the national cultural heritage protection system was brought forward. On grounds of the provisions of the convention and the relevant European and international good practice, a series of laws were drafted with the purpose of regulating distinct sectors of the cultural heritage, creating/establishing the related institutional instruments. At the same time, several regulations were drafted in connection with these laws in order to ensure their effective application.

In 2010, the Law on the Protection of Archaeological Heritage was adopted.

In 2011, the Law on Public Monuments and the Law on the protection of moveable national cultural heritage were adopted.

In 2012, the Law on Safeguarding Intangible Cultural Heritage was adopted.

The Ministry of Culture has now prepared and included in the endorsement process two legal acts that will complete the series of national legislation on cultural heritage: The Law on the Protection of Historical Monuments (architecture and urban planning [historical towns]) and the Law on Graves and Commemorative War Artwork (the 1993 law on the Protection of Monuments will be repealed with the adoption of this law).

In order to ensure the effective implementation of the relevant legislation, the Ministry of Culture has planned supplementary legislation on cultural heritage protection (environmental protection, construction and spatial planning, tourism, criminal and administrative codes). These amendments are designed to facilitate the interaction between legislation in the relevant areas.

All owners and managers of immovable cultural heritage, including the religious authorities in the Republic of Moldova, are duty bound to preserve and protect the assets concerned in accordance with the relevant legal provisions. Regrettably, there are only a few examples demonstrating compliance by the authorities with the relevant legal obligations. No special legal or regulatory acts for the protection of religious cultural heritage are in place.

The relevant national legislation concerning cultural heritage protection does not classify heritage on ethnic grounds, but provides uniform protection. Chisinau Municipality is an example, as its built cultural heritage is the work of all ethnic groups who have lived in the city throughout history (which is largely without ethnic criteria) and the centuries. The architectural monuments attributable to all of the ethnic groups are listed in protection registries/logs adopted at the national and local level.

Action required for updating and completing the legal texts concerning cultural heritage and the enforcement of current legislation and ratified conventions:

- streamlining national legislation in accordance with the provisions of international conventions signed by the Republic of Moldova;
- preparing a mechanism to follow up on the practical implementation of the legislation for the protection of immovable cultural heritage.

9. Relationship between legal texts for cultural heritage and other legal texts and policies

9.1 Spatial and Urban Planning and Strategic Environmental Assessment

Spatial planning has four policy areas: economic, social, ecological and cultural. Urban and spatial planning in the Republic of Moldova is carried out in accordance with the **Law on Urban Planning and Spatial Planning Principles**²⁹ including the preparation, endorsement, approval and amendment of urban and spatial planning documentation, territory, construction and arrangements management, the preparation of legislation, as well as control over the development and operation of construction and arrangements in strict compliance with the legal requirements on urban planning and territorial management.³⁰

The purpose of urban planning,³¹ in addition to achieving a rational and balanced land use necessary for the work of municipalities, is to: set out a functional organisation of towns; to ensure a supply of housing in accordance with the requirements and development of society; to manage the aesthetics of development of the built environment and the protection of the natural environment in urban areas; to protect the population, the natural and built environment against pollution, natural and foreseeable risks; as well as, to protect, preserve and value cultural and natural monuments.

In compliance with these objectives, the authorities of the local public administration prepare urban planning and organization programmes within the limits of their competence. The direct technical management of the urban planning is the responsibility of the architecture and urban planning services of local public administration, in accordance with the law and the technical rules.

The urban and spatial planning documentation involves preparing measures to protect and use the historical, cultural and natural heritage. For this purpose, designs are developed for the location of historical, archaeological, urban planning and architectural monuments, of natural

²⁹Law No 835-XIII of 17 May 1996 on the principles of urban and spatial planning

³⁰ Ibidem, Article 2(1).

³¹ Ibidem, Article 5 (1)(e) and (f).

areas and reserves, and for general layout, the related location and establishment plans are prepared for protection sites.

The general urban plan is prepared for the entire city, and includes all of the territories linked to territorial operation and development. It includes a guiding component and a regulatory component.

The area urban plan³² is prepared for part of the territory of a city or town or for a territory and its remit is to guide the area's operations and development in a given municipality, and it also includes a guiding component and a regulatory component.

The urban detailed plan is the document that provides conditions on the location and development of one or several buildings with a designated use in a particular area. This documentation is prepared only on the basis of the approved master urban plan and of the design urban planning certificate.

The responsibility for the preparation and approval of local spatial plans, of urban plans and urban planning regulations lies with the local public administration authorities. The current procedure for the preparation, endorsement, expertise control and approval of urban planning documentation is difficult and it leads to a number of consequences such as:

- a) difficulties in tracking the territorial, real estate, main town, transport and communication systems;
- b) increasingly detrimental urban planning and environmental situation;
- c) adoption of inappropriate decisions on the capitalisation of lands, construction, refurbishment, modernisation and conversion of enterprises, use of natural resources;
- d) deterioration of the most important transport and communication systems;
- e) deterioration of natural and built heritage;
- f) expansion of unauthorised construction;
- g) the lack of regional sectoral policies and, therefore, ignorance of priorities and of ways to remove malfunctions.

Thus, it is necessary to review procedures in order to streamline and prepare the urban planning documentation in accordance with the relevant modern methodology, which is indispensable given the development of European integration relations. The urban planning documentation, which is prepared in accordance with the principles of centralised planning and guidance and of the extensive development of territories has become outdated, inefficient and irrelevant given the promotion of new social and economic relations. Considering that the legal and regulatory basis for urban planning and spatial planning has been established with a decentralization of functions and delegation, there is a lack of initiative and irresponsible behaviour within the local authorities, who ultimately fail in their legal duty to provide urban areas and territories with urban and spatial planning documentation. Further work is required to prepare and apply specific measures on the provision with spatial and urban plans as well as urban planning documentation.

According to the data presented by the local authorities, 19 out of 57 municipalities currently have urban planning documentation that is either complete or pending completion, which accounts for 33% of all urban areas. Out of the 1,614 rural areas, rural planning documentation is completed or is pending preparation for 17 villages, 1% of the total (between 1952 and 1991, about 99% of villages and 100% of towns had master urban or rural plans. All of these are outdated.) The current situation of updated master urban plans in the Republic of Moldova, as well as its effects, can be deemed critical.

³² Ibidem, Article 14

In order to improve the sustainable development of towns, and stop the construction of buildings and planning decisions based on no predetermined policy or strategy, the **Medium-term Programme for the Preparation of Urban Plans for 2013-2016** was adopted.³³ The responsibility for the preparation of master urban plans lies with the local authorities.

It is noteworthy that, though the Law on Urban Planning and Spatial Planning Principles (1996) provides expressly that urban planning activity includes, *inter alia*, provisions relating to the protection, conservation and valuing of cultural heritage, the National Spatial Plan (PATN) prepared in 2007 does not include provisions on immovable cultural heritage. In the same way, most of the current urban plans for the towns of the Republic of Moldova do not include the necessary information for the sustainable development of cultural heritage assets in these towns. The complicated situation of the cultural heritage in certain areas is also noteworthy, including in Chisinau (where, in the past years, there has been a growth in illegal practices of intervention work on the protected built area of the historic centre), which has led to the deterioration, desecration and destruction of state protected architectural and archaeological heritage protected by the Republic of Moldova. A major concern is also the disregard for the legislation in force for the protection of cultural heritage by local public administration bodies and design engineers in the preparation of urban planning documentation. The master urban plan for Chisinau Municipality is an example in this respect, as this plan was approved by the Municipal Council with disregard for the negative opinions of the Ministry of Culture and Academy of Sciences in Moldova and with a lack of provisions on state-protected historical and cultural monuments, provisions on the historic nucleus of the national monument capital city, protected by the state, and solutions that are contrary to the legislation in force for the protection of national cultural heritage. The case is similar to that of the area urban plan of the historic centre of Chisinau (PUZ Chisinau).

The **Regulation on Natural and Built Protected Areas** was prepared and approved by the Government in 2000.³⁴ It contains: criteria for outlining natural and built protected areas in urban and spatial planning documentation; the basic requirements for the conservation and valuation of these areas; sets out the competences of relevant central and local public authorities; and, proposes special rules for sites, reserves, etc. It is binding on the central and local authorities, design engineering institutions, natural and legal persons involved in the preparation of urban and spatial planning documentation, of projects for the protected areas of natural and built heritage, management, construction, reconstruction, restoration, conservation, use or other interventions to the national or local interest areas, sites, monuments, landscapes, historical parks and gardens etc.

The need to conduct substantial studies and prepare a project for the protected area, as well as for the concomitant preparation of an Area Urban Plan (PUZ) or Detailed Urban Plan (PUD) for a territory with a rich built heritage is established under the provisions of the local urban planning regulation and is communicated to interested natural and legal persons by the Urban Planning Certificate.

The project for the protected area of natural and built heritage is prepared by the design engineering institutions, which are licensed for preparing urban planning documentation and for the restoration of historical and cultural monuments, and includes: written and drawn sections; images from archived and current materials of external views of the monument and the related spatial planning; proposals for parcelling protected areas; layout plans, the historical fact sheet of the monument; the regulation on interventions; and, proposals for evaluating the current heritage etc. The project also includes: a detailed site specific definition of the protected areas and the preparation of the fact sheet, including the natural and built heritage assets in the area;

³³Government Decision No. 493 of 4 July 2013 concerning the Medium-term Programme for the Preparation of Urban Plans for 2013-2016.

³⁴Regulation on natural and built protected areas, as approved by Government Decision No. 1009 of 5 January 2000

the existing heritage deterioration factors; the heritage importance level (local, national, international); the establishment of restrictions or facilities in the area and the means to capitalise on the existing potential; the establishment of rules for various degrees of protection; the impact of that area protection policy on neighbouring areas; and, various other sections. However, since 2000, no protected built area project has been prepared.

As there has been no law in place demonstrating the potential benefits of protecting and exploiting cultural heritage in society, including the political environment, there is a general lack of understanding of its role in the sustainable development of cities and ways of supporting this role.

There is no legislation in the Republic of Moldova on strategic environmental assessments that take into account (within the meaning accepted in the relevant European policy documents) the immovable cultural heritage by impact assessments. More specifically, built cultural heritage is mostly underestimated or even neglected owing to a lack of specialists with the relevant expertise of relevant modern regulatory documents and methodologies, and modern development areas are placed directly over the historical areas with consequences for the built cultural heritage. There are no construction guidelines in the Republic of Moldova for protected built areas or for the recovery of historical buildings and archaeological sites.

Urban and spatial plans do not usually include all the assets subject to protection (including their buffer areas) and they are not accompanied by specific and adequate regulations on their protection, safeguarding and use, as is the common practice of European countries with a tradition in the protection of urban cultural heritage.

Immovable cultural heritage is only partially reflected in the historical and cultural reference plans and in the master urban plans (the respective assets being approached more like an impediment to development than a potential asset for sustainable development.)

Cadastral documents indicate neither immovable cultural heritage assets, nor details concerning the characteristics of protected assets.

Upon ratifying the CoE's architectural and archaeological heritage conventions, RM undertook to ensure that architectural heritage protection be included among the critical objectives of urban and spatial planning and ensuring that this requirement is taken into account in the preparation of spatial and urban plans. However, these obligations remain mostly unimplemented. These aims are not reflected in the national legislation in force. Since the legislation concerned does not include provisions on the principles of protection and sustainable development of the architectural historical environment of towns or of immovable cultural heritage, international good practice was not considered as the basis for the preparation and implementation of specific urban policies.

Thus, RM does not have an urban policy based on internationally recognized principles for the protection/exploitation of historical towns and protected built areas.

Architects working with urban plans do not have sufficient academic grounding in urban planning and the management of historical towns/protected built areas and are not being trained in this area.

Actions likely to improve integration between spatial planning and immovable cultural heritage protection mechanisms

- 1.** Ensuring legislative and institutional consolidation of the national cultural heritage protection system to adopt relevant European standards and establish the necessary legislative requirements for safeguarding the immovable cultural heritage of the Republic of Moldova. Setting up a system of documenting and record-keeping for immovable cultural heritage.
- 2.** Including updated provisions in the national legislation on civil engineering and urban and spatial planning in accordance with European and international good practice on immovable cultural heritage, the protection and sustainable development of protected built areas.
- 3.** Preparing the concept of a national spatial plan and of regional plans including unequivocal and adequate principles on immovable cultural heritage.
- 4.** Issuing a temporary moratorium on the design and construction of new buildings, on the modification of the historical street network, change in the urban configuration and purpose of parks and squares, and on the demolition of the historical buildings included in the historical centre of Chisinau and in the related protection area until the master urban plan of Chisinau has been revised and supplemented in accordance with the legislation in force on the protection of the cultural heritage and the requirements of relevant documents of UNESCO and the Council of Europe, which were ratified by the Republic of Moldova.
- 5.** Ensuring that embankment or digging work in the historic centre of Chisinau City and in the monument protection areas across the country is co-ordinated by the Ministry of Culture and under the supervision of a qualified archaeologist.
- 7.** Setting up the institutional system for the preparation of frameworks for protecting cultural heritage and improving the certification system granting rights to all categories of civil engineering specialists to carry out interventions on built cultural heritage. Co-operating with ministries of culture in countries with extensive experience of heritage protection or with other international organisations in order to facilitate exchanges between specialists, organising courses, Master's degree studies, doctoral studies, etc.
- 8.** Preparing civil engineering regulations on the technical expertise needed when dealing with monuments; on the method of preparation and framework content of the design documentation for the restoration of monuments; on the execution of restoration work and others.
- 10.** Technical expertise, inventory and documentation of built cultural heritage. Establishing the Cadastre of Immoveable Cultural Heritage.

The provisions of the CoE architectural and archaeological heritage conventions, ratified by our country, must be implemented. These state that cultural heritage should become an essential element of urban policies in the Republic of Moldova and that this aim should be considered in all the preparatory stages of urban planning documentation.

Urban planning policy's approach to historical towns and protected built areas needs to be established in line with European documents and good practice in the area of immovable cultural heritage. Measures to ensure the protection/management of historical sites, towns and built protected areas should be integrated into national legislation on urban and spatial planning development and on cultural heritage. The cadastral legislation must be amended to include cultural heritage assets in the reference documentation (Creation of the Cadastre for Cultural Heritage Immoveable Assets).

Specialists must be trained in urban planning and the management of historical towns/protected built areas.

European documents and good practice on the protection and exploitation of urban cultural heritage need to be implemented. It is necessary to stop viewing historical towns as a number of separate historical buildings, but rather a whole or single urban body with spatial, structural, volumetric and style features that need to be perpetuated and recovered (the

historical-architectural environment). For this purpose, legislation underpinning urban planning management in the Republic of Moldova should be amended.

9.2 Construction, Building, Development and Infrastructure provision

The urban planning certificate for design and the construction permit are prepared by the local public administration in accordance with the provisions of the **Law on the Authorisation of Construction Works**.³⁵ The urban planning certificate for design is prepared based on the urban and spatial planning documentation by the local architecture and urban planning bodies attached to the local public administration.³⁶

The permit for construction works in cities and towns is granted based on the urban planning documentation and the permit for construction works in national parks, natural reservations and in other protected areas of national interest, which are designated in accordance with the law, is granted in accordance with the legislation in force with the opinion of the Ministry of Regional Development and Construction, the Ministry of Culture and the Ministry of the Environment.³⁷

The permit for construction work in areas including built cultural heritage of national interest is granted following the opinion of the Ministry of Culture and based on the area and detailed urban plan prepared for those areas.

The permit for construction work in areas including built cultural heritage of local interest, which are declared and designated by a local public administration decision, is granted following the opinion of the Ministry of Culture in accordance with the Regulation.³⁸

A permit for construction work intended for research, conservation, restoration or exploitation of historical monuments is granted, in accordance with the Regulation,³⁹ in compliance with the opinion of the Ministry of Culture in accordance with the legal requirements.

A permit for demolition of an architectural and historic monuments in accordance with the legal⁴⁰ provisions, the applicant shall obtain the positive opinion of the Ministry of Culture and an archaeological expert's opinion concerning the likelihood of archaeological artefacts, issued by the National Archaeological Agency.

Considering the excessive number of procedures and permits required in the Republic of Moldova for construction work (mentioned in the '*Doing Business 2015*' report prepared by the World Bank) it is not currently propitious to introduce a new form of authorisation – such as a heritage permit – in addition to the construction permit for development works.

According to the '*Doing Business 2015*' report, the Republic of Moldova has gone down 5 places in the ranking in effective management of construction permits compared to the previous year and is ranked at 175 out of 189 economies. In order to obtain all the necessary documents, the business operator must go through 27 procedures, which is double the European average, and the process lasts for not less than 247 days. This report is in many cases used as an argument removing notification of the Ministry of Culture, citing the excessive number of procedures and permits required for the authorisation of construction.

With the changes made in 2013 to the Law on the Authorisation of Construction Work, on the endorsement of design briefs and design documentation by the National Council of Historical Monuments attached to the Ministry of Culture, when interventions are planned on historical, art and architecture monuments or in built areas listed in the Register of State-

³⁵ Law No. 163 of 9 July 2010 on the authorisation of construction works

³⁶ Ibidem, Article 4(1)

³⁷ General Urban Plan Regulation, as approved by Government Decision No. 5 of 5 January 1998

³⁸ Ibidem, Section 32.

³⁹ Ibidem, Section 33.

⁴⁰ Ibidem, Article 17(1)(f) and (g)

protected Monuments of the Republic of Moldova, the investor or beneficiary must obtain an archaeological expert's opinion and an archaeological relief certificate from the National Archaeological Agency. These documents are mandatory in order to obtain the urban planning certificate and the construction permit.

The current legislation does require that special impact assessment studies – focused on the potential impact on built or archaeological cultural heritage, on cultural landscapes or on the historical - cultural environment of historical towns – are conducted prior to large construction or infrastructure projects.

In order to improve the integration between authorisation procedures and ensure the protection of the heritage assets from damaging developments, the following actions should be undertaken:

1. The Ministry of Culture should prepare a regulation on intervention work in areas with protected monuments.

2. The legislation on the authorisation of construction and intervention work on built cultural heritage should be improved and brought in line with similar EU legislation.

3. Unequivocal and sufficient responsibility should be introduced in the criminal and administrative codes for actions causing damage to immovable cultural heritage assets, including clerks issuing permits that flaunt cultural heritage legislation.

4. In order to meet the obligations already undertaken under international law, such as the Convention for the Protection of the Architectural Heritage of Europe (Granada), the deliberate or negligent destruction and impairment of national cultural heritage must be counteracted using strong preventive protective measures such as **expropriation for purposes of public utility of endangered national cultural heritage** or, in cases described by criminal law, even by extreme measures such as forfeiture of the endangered national cultural heritage.

9.3. Other Laws

National legislation in force in the area of investment, taxes, duties, reimbursement, expropriation, human rights and education do not make any reference to built cultural heritage.

Article 8 of the Law on Property provides that the exercise of property rights over monuments is established by the legislation of the Republic of Moldova.

Article 221 of the Criminal Code of the Republic of Moldova refers to built cultural heritage, providing for a series of fines for the intentional destruction or damaging of monuments, but it does not require that the damage caused to the monument be repaired. Article 74 of the Contravention Code of the Republic of Moldova refers to built cultural heritage, providing for a series of symbolic fines for breach of the monument protection rules. The case law of the Republic of Moldova has no examples of application of the provisions of these codes.

Article 59 of the Land Code of the Republic of Moldova provides for restrictions on historical-cultural land including built cultural heritage as regards the performance of activities contrary to the special purposes of these assets. Since such provision does not exist in the legislation on cultural heritage and it does not explain the special parameters of these lands (the meaning of special purposes), and since the contravention and criminal codes do not provide for the application of penalties for breach of these special purposes of the lands, the provision in the land code is unenforceable.

The law on the organisation and development of tourist activity refers to monuments as a 'touristic resource'. At the same time, no responsibilities have been established in connection with the protection of 'touristic resources' for organisers of tourist activities (tour-operators).

Current legislation in the area of cultural heritage do not contain the provisions (or they are ambiguous, allowing for interpretations) required to set up a national co-ordinated and integrated regulatory system in the reference field.

Accurate and very clear provisions need to be established in national legislation on built cultural heritage with a subsequent introduction of the necessary references in the related legislation of other ministries in order to establish a reliable national regulatory system in this field.

Other actions required to improve the co-ordination and integration procedures:

- the creation of a regulatory framework fostering sponsorships in the protection of immoveable cultural heritage;
- the creation of a regulatory framework in order to sustain, in terms of taxes and fees, good-faith owners of historical monuments;
- the creation of a synergy of all of the national legislation referring to immoveable cultural heritage.

10. Inventories, documentation systems and the planning process

As regards the number of cultural and natural sites and areas with priority in protection and funding, the Government has not drawn up such a list to date. However, out of the total of 15,000 cultural sites, the *Cultural-natural site "Orheiul Vechi Reservation"* is distinguished by the government as having a special status as the most important cultural site in the Republic of Moldova, and its nomination for inscription on the World Cultural Heritage List of UNESCO is currently being prepared.

In addition to the 5,206 sites listed on the national register, a series of monuments of local and regional importance are included in local (regional and municipal) registers. The Law on the Protection of Monuments requires that the state institutions in charge have a systematic methodology in place to monitor and review the state of historic monuments. The inspection and assessment of the actual state of architectural monuments inscribed in the register was only begun by the Monuments Inspection and Restoration Agency in April 2010:⁴¹

'State bodies for the protection of monuments are bound to review on a systematic basis the state of monuments in order to prepare reasoned scientific programs for restoration and conservation work and to ensure timely material and document performance of works'.⁴²

The register of state-protected monuments was approved by the Parliament of the Republic of Moldova in 1993 but was only published in the Official Gazette in February 2010.⁴³ Non-publication of the national register for 17 years deprived historical monuments of the right

⁴¹ Although the agency was set up early in 2006 as part of the Ministry of Culture, its activity has become visible only after 2010.

⁴² Article 30, Monuments Preservation Act No. 1530-XII, 22.06.1993.

⁴³ Official Gazette of the Republic of Moldova, No. 15-17, 2010.

to state protection because the status of protected monument only applied to monuments registered in the Register of State-protected Monuments of the Republic of Moldova:

'(1) Monuments are artwork or sets of artwork of historical, artistic or scientific value, which are testimony to the evolution of civilizations on the territory of the Republic and to its spiritual, political, economic and social development and which are inscribed in the Register of State-protected Monuments of the Republic of Moldova.'⁴⁴

The provisions of Section 2 are contrary to those of Section 1 in the same article because they provide for the fact that all the monuments located on the territory of the Republic of Moldova are part of its cultural and natural heritage and that they are protected by the state. Both common citizens and representatives of state institutions found themselves in a state of confusion. In most cases to avoid taking responsibility for damage to or destruction of cultural assets, they used the argument that the monument was not inscribed in the Register or that the Register was not published in the Official Gazette and, therefore, it did not have any legal force. Moreover, Article 14 of the Monuments Preservation Act requires that owners of cultural assets comply with the law of the Republic of Moldova on the protection of monuments only if those assets are entered in the register of monuments:

'Owners with any title deed possessing, using or keeping monuments of a historical, artistic or scientific value, which are recorded or inscribed in the register of monuments are obliged to comply with the provisions of this law, this requirement being included in the title deeds, sale-purchase or rental agreements.'⁴⁵

Besides laws, there is also a list of regulations intended to enforce the regulatory provisions and to regulate the legal relations between various branches with an impact on cultural heritage.⁴⁶ The *General Urban Planning Regulation*, as approved by Order No. 5 of the Government of the Republic of Moldova on 5 January 1998, is a pertinent example. Or, the *Regulation on natural and built protected areas* in 2001, which reasserts the provisions according to which the administrative status for the protection of the built heritage can only be established when it is included in the register of monuments:

'In the case of built heritage, the system of protected areas shall be established for the monuments included in the Register of State-protected Monuments of the Republic of Moldova and in the monument registers of administrative - regional establishments.'

The municipalities of towns and the regional councils are obliged to prepare and administer the registers of monuments of local importance, these documents form the basis for the cultural heritage preservation and urban and regional development. The legislation requires that councils allocate some of their annual budgets to maintain, preserve and restore the sites included in the register. However, most of the councils do not prepare registers and do not set aside resources in their local budgets for this purpose.

The Law on Architectural Activity sets out the general legal framework for all architectural activities, provides for the responsibility of central and local administrative bodies for architecture and urban planning, ensures copyright for architects and provides for their main tasks, rights and obligations:

⁴⁴ Article 1(1), Monuments Preservation Act No. 1530-XII, 22.06.1993.

⁴⁵ Article 14, Monuments Preservation Act No. 1530-XII, 22.06.1993.

⁴⁶ The Regulation on natural and built protected areas, as approved by Government Decision No. 1009 of 5 October 2000, the General Urban Planning Regulation, as approved by Government Decision No. 5 of 5 January 1998, Regulation on urban planning certificates and construction permits or permits for demolition of constructions and arrangements, as approved by Government Decision No. 360 of 18 April 1997.

'The State shall ensure that pertinent conditions are established for the performance of the architectural activity through:

- a) support of scientific research in the area of architecture and urban planning;
- b) attraction of investment for the design and construction of architectural artworks;
- c) professional training and recycling of staff active in the field of architecture and urban planning;
- d) protection of copyright and provision of the architect's freedom of creation;
- e) the promotion of competitions, including international ones, for the creation of artworks with great urban and architectural value;
- f) support for the activity of professional public creation organisations of architects;
- g) mention of architects for special merit in architecture and urban planning;
- h) development of other measures for national architecture development.¹⁴⁷

In addition to general legislation on the protection of cultural and natural heritage, there is also a set of laws regulating the regional and urban planning process directly concerning historical towns or their cultural heritage.⁴⁸ Thus, the *General Urban Planning Regulation* of 1998 imposes the obligation to closely follow the regulation requirements on all the local public administration authorities, design institutes, specialised design, engineering and marketing services, legal and natural persons, including those from abroad, which are involved in urban planning activities. It also provides for the following in connection with cultural and natural heritage:

'31. A permit for construction work in areas including built cultural heritage of national interest shall be granted in accordance with the legislation in force, with the opinion of the Ministry of Culture and based on the area and detailed urban plan prepared for those areas.

32. A permit for construction work in areas including built cultural heritage of local interest, which are declared and designated under a local public administration decision, shall be granted with the opinion of the specialised services subordinated to the authorities referred to in Section 31.

33. A permit for construction work intended for research, conservation, restoration or exploitation of historical monuments shall be granted, in compliance with the legislation in force and with the opinion of the Ministry of Culture under the legal requirements.

34. A permit for construction work in areas current built up shall be granted only provided that maximum maintenance is ensured for buildings, installations and useful green areas, including cultural heritage buildings.'

Thus, the law sets out very clearly the main facets of urban planning, in particular as regards central areas of historical value or other specially-designated areas, for which the urban planning certificate can be issued only after co-ordination with the Ministry of Construction and Regional Development and, where appropriate, with the Ministry of Culture and the Ministry of the Environment.⁴⁹

Architectural and urban planning bodies under the remit of local public administration will be involved in:

⁴⁷Article 3 of the Law on the architectural activity, No. 1350-XIV, 27.02.2001.

⁴⁸ General Urban Planning Regulation, Government Decision No. 5 of 5 January 1998. in the Official Gazette No. 14, 26.02.1998. **Framework-regulation on the activity of local architectural and urban planning bodies, Government Decision** No. 499, 30.05.2000. In Official Gazette No. 065, 08.06.2000.

⁴⁹ General Urban Planning Regulation, Government Decision No. 5 of 5 January 1998. in the Official Gazette No. 14, 26.02.1998.

i) keeping records of the cultural heritage of the administered territory for its use, protection and preservation, checking compliance with legislation in the protection areas of historical monuments as part of their exploitation;

j) approving the technical documentation for the performance of investigation, design, restoration, conservation, reconstruction and adaptation works;

k) developing measures together with the state and local bodies for the protection, restoration, operation and conservation of historical, cultural and architectural monuments.⁵⁰

In fact, all the towns and cities must have an urban plan and a spatial plan: Soroca, Balti, Cahul are useful examples of this. The urban and development plan of Chisinau City was prepared with the participation of the Urban Design Institute.

In parallel, state bodies **must consult with the local population in the preparation and approval** of the spatial and urban planning documentation.⁵¹ In 2004, the Government of the Republic of Moldova approved an action plan following its findings on the unstable situation of urban planning and in order to implement an efficient and sustainable policy for urban and spatial planning, however, to date, little has been done to complete it.⁵²

11. Forms of immovable heritage protection

Moldavian national legislation defines the moveable and immoveable monuments by using general terms such as archaeological artefacts alongside specific terms such as tumuli, famous rocks, isolated ancient tombs, fortifications, ancient roads etc. as well as architectural references. Thus, the legislation includes the following immoveable assets:

‘... natural items of a geological, biological, zoological, anthropological, archaeological, historical ethnographic value, buildings, constructions, cemetery monuments, monumental and architecture artworks, tumuli, famous rocks, isolated ancient tombs, fortifications, ancient roads, old bridges and medieval aqueducts.’⁵³

Furthermore, the term ‘*architectural site units*’ is outlined in the law, under the section of monumental units and there is an attempt to draw up a list of its components. The following are deemed monumental units in the form of immoveable assets:

‘natural territories and landscapes, archaeological complexes and sites comprising earth fortifications, non-fortified settlements (fortification sites, ancient settlements, sites of primitive men, vaults, caves, tumulus units, necropolises, archaeologically valuable strata), monument complexes with a historical, archaeological or memorial value (memorials, cemeteries) including anthropological artifacts, earth works, famous rocks, isolated ancient tombs, ancient defensive ditches, ethnographic objects, complexes and reserves of urban and rural architecture (towns, town centers, neighborhoods, squares, streets, fortifications, monastical complexes, manors, parks, natural landscapes with architectural objects)’⁵⁴.

⁵⁰ P. 15, **Framework-regulation on the activity of local architecture and urban planning bodies, Government Decision No. 499, 30.05.2000.** In Official Gazette No. 065, 08.06.2000.

⁵¹ **Regulation on consulting with the local population in the preparation and approval of the spatial and urban planning documentation. Government Decision No. 951, 14.10.1997.** In Official Gazette No. 076, 20.11.1997.

⁵² Action Plan for compliance with the provisions of Law No. 835-XIII of 17 May 1996 on the principles of urban and spatial planning and of other related legal and regulatory acts. **Government Decision No. 633, 08.06.2004. In Official Gazette No. 096, 18.06.2004.**

⁵³ Article 2(2), Monuments Preservation Act No. 1530-XII, 22.06.1993.

⁵⁴ Ibidem, Article 2(3).

Thus, the legislator provides a mixture of terms under the same article of the law without outlining their meaning. The same combination is found in the definition of moveable monuments, where the law includes a general list of archaeologically valuable artefacts, including, between brackets, phrases such as '*tools of historical value*,⁵⁵ which is superfluous in this context. It is an omission to indicate the term, with an inappropriate generalisation thereof.

Historical monuments are categories into two main groups according to their importance; national and local. They are either integrated into a specific historical context, isolated or grouped. The built component is the essential element of architectural heritage.⁵⁶ At the same time, cultural assets, including historical monuments, are protected by law together with a strip of land around them (protection area or buffer), where activities that negatively impact on the monument's protected status are restricted.⁵⁷ In accordance with the official rules, if any activities are being planned in the protection area (conservation, restoration, demolition etc.) the Ministry of Culture must first be consulted.

➤ *What current problems exist in the designation and listing process or regarding activities which should be controlled in relationship to protected architectural or archaeological heritage assets and how can they be resolved? What actions can be taken to encourage rehabilitation of heritage resources for the benefit of society?*

Actions to settle inventory issues and to encourage the rehabilitation of heritage resources to the benefit of the society:

- Updating the national monuments preservation register;
- Preparing a national programme on the promotion and sustainable use of immovable heritage;
- Developing management plans for each immovable heritage site;
- Encouraging and involving the private sector in projects related to the protection and recovery of cultural sites.

12. Education, awareness-raising and consultation mechanisms

Public consultation is an important component of heritage management. As such, it is mandatory in the preparation and approval of all the urban and spatial planning categories, with the exception of the national spatial plan and the detailed urban plans affecting the public domain.⁵⁸

The organisation and processes for public consultations are established by the **Regulation on local public consultation in the preparation and approval of spatial and urban planning documentation.**⁵⁹

⁵⁵ Ibidem, Article 2(4).

⁵⁶ T. Nesterov, Study on the Situation of Historical Towns in the Republic of Moldova, Chişinău, 2007, p. 30.

⁵⁷ Article 59 of the Land Code of the Republic of Moldova, No. 828-XII of 25 December 1991, as republished in the Official Gazette, No. 107 of 4 September 2001.

⁵⁸ Article 27 of Law No. 835-XIII of 17 May 1996 on the principles of urban and spatial planning

⁵⁹ The Regulation on local public consultation in the preparation and approval of the spatial and urban planning documentation, as approved by Government Decision No. 951 of 14 October 1997.

Consultation is differentiated according to the size and importance of the urban and spatial planning documentation, according to the procedures defined by the Regulation.⁶⁰ Consultation is designed to determine public attitude to planning documents being prepared, the expressed proposals and the accepted solutions, as well as urban sociology studies supporting project solutions.

Urban sociology studies take up to 60 days depending on the type of document being prepared. They are annexed in the plan's justification studies and are supporting documents.

In order to organise a public consultation, the local public authority sets up under an internal decision a public examination board including councilors or, as appropriate, specialists in decentralised bodies of ministries and departments, of other related regional structures and representatives of the public. The board acts according to public principles.

The responsibility for the organisation of public consultation lies with the local public administrative authorities whose mandate it is to approve the respective plan, as provided for by the law in force.

The main consulting institutions for the protection of the cultural heritage are the National Council of Monuments, the National Council of Public Monuments and the National Archaeological Committee as structures of the Ministry of Culture. One of the institutions providing scientific consulting services is the Academy of Sciences in Moldova.

In the preparation and development of cultural policies, the Ministry of Culture consults with a series of Government ministries (Ministry of Justice, of Economy, Finances, Constructions and Regional Development, Environment etc.), the Academy of Sciences of Moldova, universities with a historical and cultural profile, local public administration, civil society etc. For example, in order to update the register of state-protected monuments, proposals are welcome from any state or private organisation, NGOs or even physical persons. They are then integrated into a draft law that may be submitted to the Parliament by the Government, the President of the country or a group of deputies. The same procedure must be followed for the removal of any site from the register.

As regards construction permits, they are issued by the Ministry of Construction but, when they refer to cultural heritage sites or areas, they must consult with the Ministry of Culture. This is also valid for the approval of architectural projects and the local public administration has to consult with the Ministry of Culture and may issue the permit only after having received the opinion of the National Council of Historical Monuments. Unfortunately, there is not any state body with the power of *veto* over acts that are contrary to the permit release procedure. Such cases may only be settled in court, but first, prosecution bodies must be notified to establish the circumstances and to qualify the case under civil and criminal legislation.

The National Council of Historical Monuments is also the main advisory body of the Ministry of Culture for projects relating to the reconstruction, restoration or demolition of cultural heritage buildings. It comprises 14 members. The council reviews the intervention projects on historical monuments in two stages. In the first, the brief or concept of the proposed intervention is reviewed and, if the opinion is positive, it justifies the issue of the urban planning certificate by the local public administration authorities (legal act for the design process). At its second stage, the project is subject to a review and the positive opinion of the council provides the legal basis for the issue of the construction permit by the local public authorities. However, in practice this procedure is frequently circumvented with the tacit consent and participation of local public authorities. Such issues (non-compliance with the legal provisions on the protection, preservation and exploitation of cultural heritage) are monitored by the Monuments Inspection and Restoration Agency attached to the Ministry of Culture.

⁶⁰ Ibidem, Chapter 1

To give an example, several public institutions were consulted in the preparation of the urban plan for Chisinau Municipality, including the Cultural Heritage Institute of the Academy of Sciences, private institutions and even independent experts. However, the final result was unexpected and specialists' opinions concerning the protection of the built and archaeological cultural heritage were not taken into account. This is why the issue of a proper drafting of a new urban plan for Chisinau is still relevant.

The absence of a tradition for protecting cultural heritage in Moldova hinders consultation mechanisms and the consultation and decision-making cycle is often not followed, which ultimately leads to the damage or destruction of cultural heritage sites. Private, group and party interests together with a corrupt system are all factors that affect the decision-making to the detriment of the historical heritage.

Unfortunately, public involvement in the national level consultation process is weak in most cases, partly as draft urban and spatial planning consultation documents are sizable and understood only by specialists in the field. The presentations made by specialists at consultation events to raise public awareness are too general and do not allow for more active involvement in debates. Thus, such consultations become a formality. Practically no public consultations are conducted by local public administrations, especially for works on cultural heritage sites of national importance. This can lead to the deterioration of the heritage, with the exception of those sites with a strong public resonance and sites championed by public organisations.

13. Enforcement, Sanctions and Penal Measures

Authorisation/permit procedures

Archaeological heritage

Moldavian legislation requires that anyone wishing to perform archaeological excavation submit a request for a special permit. The Archaeological Committee of the Ministry of Culture is authorised to assess archaeological projects and recommend that the Ministry of Culture issue permits to persons or archaeologists with the requisite qualifications. Thus, the permit is the sole document required to conduct archaeological excavations on sites (including work on human remains). The members of the Archaeological Committee are entitled to supervise and control such works. The permit for archaeological investigations is a legal document intended to prevent illegal excavations. It requires that the holder use adequate methods and techniques for scientific investigation. After the excavation, researchers are obliged to submit a written report to the Archaeological Committee, including a description of the place and period of the dig, the methodology, results etc. The report should be accompanied by plans, images, pictures and other illustrative material. It should be peer-reviewed by two qualified archaeologists before being submitted to the committee. In accordance with national rules and international standards, archaeologists must publish the results of archaeological excavations as soon as possible. The results of archaeological research should be made public within five years of the excavation. In most cases, this rule is not observed because established archaeologists retain their monopoly on the publication of results.

In the event that archaeological remains are discovered as a result of agricultural or construction activities, the developer (both a natural or legal person) must stop work and notify the competent bodies of the local public administration or the Ministry of Culture. After the archaeologists' intervention and the issue of the archaeological relief certificate, work may be continued or ceased if archaeology of national importance has been discovered.

Architectural heritage

The main supporting institution to the Ministry of Culture in issues relating to permits in the field of architectural heritage is the National Council of Historical Monuments. The latter meets twice a month and determines whether there is need for intervention on any state-protected historical monument (including its protection area). Any intervention is reviewed in two stages. The Council first reviews and approves the concept design brief and then, in a subsequent meeting, debates and approves the developed and technical design.

In the case of the capital city, any projects that have potential impact on historical buildings that are not classified as monuments, historical buildings classified as monuments or plots of land included in the historic centre, considering their legal status as monuments, must be submitted to the National Council of Historical Monuments at the design brief stage and then in the project execution stage for endorsement, the construction permit being issued only afterwards. However, if the historical building is classified as a monument (inscribed in the municipal register of monuments) but is not located in the historic centre of the capital, intervention projects are reviewed only by the local public authority. In fact, the legal procedure for endorsing intervention work performed in the historic centre is ignored by local authorities.

Penalties

Unfortunately, the sentence for breach of the legal provisions is applied to a lesser extent and the application of penalties is rare. The national law includes, however, a series of provisions on illegal actions leading to the deterioration or destruction of historical monuments. Thus, anyone who damages a monument or a protected area is required by law to restore it to its initial condition and, if this is not possible, to pay damages; any official person or employee found guilty of destruction will be held liable for pecuniary damages under the law.⁶¹

The Contravention Code of the Republic of Moldova provides that:

‘Any breach of the rules on the protection and use of historical and cultural monuments, of monuments included among the natural heritage or state-protected sites, as well as of artefacts or documents of a historical or cultural value shall be subject to the penalty of a fine from 40 to 70 contravention units applied to the natural person or with non-remunerated community work from 40 to 60 hours, with a fine from 100 to 200 contravention units applied to the legal person.’⁶²

The same code states very clearly that, for the issue of urban planning certificates and construction or demolition permits leading to a breach of the law and of the legal documents in the construction field or affecting cultural, historical and architectural heritage, the responsible party(ies) are be subject to: a penalty from 60 to 100 contravention units applied to the natural person); 100 to 200 contravention units on the responsible person; 300 to 400 contravention units on the legal person concerned with or without deprivation of the right to perform any activity for a period of three months to one year in all of the three cases.⁶³

The Criminal Code of the Republic of Moldova provides for special sentences for the destruction or deterioration of historical or cultural monuments and natural sites:

‘Intentional destruction or deterioration of historical and cultural monuments or of natural elements taken under the protection of the State shall be subject to penalty with the application of a fine from 500 to 3 000 contravention units or with non-remunerated work to the benefit of

⁶¹ Ibidem, Article 53.

⁶² Article 74 of the Administrative Contravention Code No. 218, 24.10.2008. In the Official Journal No. 3-6, Article 15, 16.01.2009.

⁶³ Ibidem, Article 177(g).

the community from 180 to 240 hours, and legal persons shall be subject to a penalty with the application of a fine between 3,000 to 5,000 contravention units with deprivation of the right to perform a certain activity.”⁶⁴

Regarding desecration of tombs:

‘(1) The desecration of a tomb, of a monument, of an urn or of a dead body by any means, as well as taking possession of items found in or on the tomb shall be subject to penalty with the application of a fine from 200 to 500 contravention units or with non-remunerated work to the benefit of the community from 180 to 240 hours or with imprisonment of up to 1 (one) year.

(2) The same acts committed:

a) by two or several persons;

b) on grounds of social, national, racial or religious hatred shall be subject to a penalty with the application of a fine from 400 to 600 contravention units or with non-remunerated work to the benefit of the community from 200 to 240 hours, or with imprisonment up to 5 (five) years,⁶⁵

The law on the protection of monuments obliges those who caused damage to a monument to restore the monument to its initial condition or, if this is not possible, to cover the costs of the damage.⁶⁶

‘An owner, with any legal title deed, who has been found guilty of having degraded the monument shall be deprived of his right of possession to the property or use thereof under legal requirements.’⁶⁷

The Monuments Protection Act provides explicitly that liability is primarily held by the Ministry of Culture and the owners of cultural assets:

‘(1) The Ministry of culture and owners shall be held liable in the event of damage, loss, sale without notification, deterrence of works for safeguarding, protecting, preserving and restoring the monuments.’⁶⁸

Trafficking of heritage items, including archaeological artefacts is treated modestly by Moldavian law. In most cases, the term of cultural assets is used and there is no indication of what this category includes, as the term is classed with other categories of assets in the context of smuggling. Article 248 of the Criminal Code on smuggling outlines in paragraph 1 that items pertaining to cultural - historical heritage are included in the category of ‘merchandise, items and other large-size valuables, circumventing customs control or concealing such valuables’, and in paragraph 4, it provides that ‘crossing the customs border of the Republic of Moldova with the cultural valuables, circumventing customs control or concealing from it by hiding in places specially prepared or adjusted for this purpose, as well as non-return of the cultural valuables removed from the country to the customs territory of the Republic of Moldova if such return is mandatory shall be subject to penalty with imprisonment from 3 to 8 years and legal persons shall be subject to penalty with the application of a fine from 5,000 to 10,000 contravention units with deprivation of that legal person’s right to carry out a certain activity or with the liquidation thereof’. Thus, crossing the borders with cultural assets and circumventing customs control, as

⁶⁴ Article 221. The Criminal Code of the Republic of Moldova. The value of a contravention unit is 20 lei.

⁶⁵ Ibidem, Article 222, Desecration of tombs.

⁶⁶ Article 53 of the Monuments Protection Act No. 1530-XII, 22.06.1993.

⁶⁷ Ibidem, Article 54.

⁶⁸ Ibidem, Article 55(1).

well as the non-return of the cultural assets taken abroad is deemed to be smuggling and punishable in accordance with national legislation.⁶⁹

Illegal trafficking of cultural valuables is an interesting and current issue. If the cultural heritage becomes the property of the state as a 'treasure', as defined in the Civil Code, those using metal detectors or any other instruments commit a breach of the code by 'theft' from the property of the state, sale of the property of the state and theft of 50% of the property of land owners and sale of the property to other persons. *The Criminal Code of the Republic of Moldova* approaches the issue of theft and sale of foreign property in Chapter 6, *Offences against heritage*, such breaches being punishable according to the size of the offence by the application of a fine or detention.⁷⁰ The example of robbery and illegal trafficking in archaeological artefacts is proof of how national laws are breached (Administrative Contravention Codes, Criminal Code, Customs Code, Monuments Protection Act etc.). Another issue is fighting such phenomena. Unfortunately, officials fail to take action in order to stop such breaches, even if they are aware of these cases.

Required action to improve the enforcement and penalty mechanisms:

- the promotion of draft laws in the Parliament on the amendment of the Criminal Code and of the Contravention Code as regards the application of penalties in the cases of breach of rules on the protection of cultural heritage;
- the implementation of a national educational and informational programme on responsibility for the protection of cultural heritage;
- involving state institutions actively and responsibly in order to fight the phenomenon of destruction and deterioration of heritage assets.

14. Conclusions and proposed actions

COMUS follows the "Pilot Project for the Rehabilitation of Cultural Heritage in Historic Towns", as part of the "Kyiv initiative Regional Programme", which Moldova participated in between 2009 and 2011. During the COMUS Inception Phase, two reference documents were produced (Assessment Report and Political Note) to evaluate the existing legal and institutional frameworks and to determine priorities and actions required to improve existing laws, policies and administrative mechanisms related to urban management and rehabilitation. In response to the inclusive approach promoted within the project, the present Assessment Report thoroughly presents the situation of heritage and encompasses other related fields, particularly focusing on the built heritage of historic towns.

Moldova adopted various international conventions related to heritage conservation, particularly the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (2005), the European Cultural Convention (1954), the Convention for Protection of the Architectural Heritage of Europe (1985), the European Convention on the Protection of the Archaeological Heritage (1992), and the European Landscape Convention (2000). By adopting this set of instruments, Moldova expressed its ambitions to connect to European trends and values, within which heritage protection occupies a leading place. The recently adopted

⁶⁹Article 224, Customs Code of the Republic of Moldova, No. 160-162, 23.12.2000. In Official Gazette No. 1201.

⁷⁰ The Criminal Code of the Republic of Moldova.

Strategy for Culture “Cultura 2020” is a manifestation of this ambition; it is the first document adopted in Moldova to mention heritage conservation as one of its main national objectives. Conservation and enhancement of the national heritage are also on the list of medium-term policies included within the Government Activity Program of the Republic of Moldova for 2015-2018. Among the general actions to be carried out to achieve this objective, both documents point to the need to finalize the legal and institutional frameworks for heritage restoration and conservation and to create a market for this area.

The existing national legal framework needs serious improvement in order to ensure heritage enhancement, both in terms of policies and regulations for heritage and construction, but also in related fields such as land use, tourism, urban planning, economics and so on. As heritage management is not all about the competence of the Ministry of Culture, an integrated approach based on inter-ministerial and cross-sectorial co-operation is necessary for updating existing laws and for proposing new ones, thus creating a coherent legal system which will truly contribute to the sustainable development of our heritage resources. Meanwhile, the expertise of all the institutions involved with heritage or protected areas that are responsible for the practical implementation of the state policy in the field of built heritage should be clearly defined.

Staff resources in the area of heritage conservation, restoration and protection are quite poor. Although there are architects and technicians with the legal right to design interventions on monuments and within historic areas, their practical knowledge and skills base is non-existent when professional intervention on historic buildings and sites are concerned. In many cases, heritage resources are perceived as obstacles to economic progress and are not usually considered when new development plans are created. Usually heritage professionals are not involved in elaboration of development plans. It is necessary to train qualified staff to develop integrated policies related to economic development, land use, natural and cultural enhancement of historic towns. The conceptual and practical skills of specialists working with heritage management should be improved by introducing education and training programmes for architects, archaeologists, engineers, restorers, including those working in the private sector. Training events and exchange of experience facilitated by external experts, will help to change perceptions gradually and will improve management and control skills for authorities and professionals.

Following the problems described above, a few actions have been identified to be undertaken by national institutions to overcome the situation and to strengthen the role of heritage in national policies:

- 1. To adjust the national legal framework for urban cultural heritage according to relevant international conventions adopted by Moldova, by involving all related national stakeholders;*

The laws for protection of historic monuments, sites and immovable heritage should be enhanced and elaborated according to international standards and values, which Moldova claims to achieve. The legislation and regulations must also be adjusted for building construction and urban planning and development by considering heritage buildings and sites important resources for sustainable urban development.

2. To enhance the institutional framework for heritage by establishing effective management bodies and by increasing operational capacities of the responsible authorities on national and local level.

Defining responsibilities on national and local level is the key factor for coherent management of heritage resources. A national institution should be set up for the implementation of the state policy for built cultural heritage (record-keeping, inventory, research, restoration technologies, etc.). On a local level, historic towns should be provided with special teams tasked with managing heritage assets.

3. To create and implement more efficient control mechanisms of economic, tourism, housing, infrastructure and land planning activities in heritage protected areas.

The current legislation contains discrepancies in various fields as regards sustainable use of heritage assets and penalties for inappropriate interventions or usage of these resources. Laws and policies of related areas, such as economy, tourism, regional development and so on, should contain special provisions for activities in historic buildings and sites, thus ensuring proper control over these activities.

4. To enhance inter-ministerial co-operation for supporting joint projects that will ensure the role of heritage in strategic objectives of the other institutions.

Strengthening inter-ministerial collaboration, including preparation of joint strategies, is important for the sustainable protection and regeneration of protected built areas in historic towns. In this way, the importance of immovable cultural heritage will be increased in local and regional urban development policies and in sectorial policies. It is necessary to provide local public administrative authorities with the means to prepare and adopt management plans that sustain the regeneration of the existing historic urban fabric with a medium- or long-term outlook for urban development.

5. To create financial mechanisms for sustaining private initiatives for the rehabilitation of historic buildings and heritage protected areas.

The current law in the Republic of Moldova does not provide for financial support from public resources for restoration projects initiated by the private sector. It is recommended that a national fund for the restoration and conservation of monuments be established. This would secure funding for the preparation of regeneration plans for historic towns and the rehabilitation of monuments. Support for owners of historical monument buildings is also possible through joint funding initiatives from public and private sources. This method raises awareness of the business sector and attracts private investments for heritage regeneration projects.

6. To strengthen professional capacity in both public and private sectors, by sustaining conceptual and practical knowledge of integrated urban management of heritage protected areas.

The Republic of Moldova does not have a strong foundation of professionals in the area of design and practical intervention work on immovable cultural heritage. The professional

capacity of the staff in the public administration and of specialists should be strengthened by creating a conceptual and practical base of knowledge and skills in the integrated management of protected urban areas. This involves the preparation of educational and training programmes for architects, archaeologists, engineers, restorers, including those in the private sector. Training and the experience of exchange, assisted by external experts, will bring about a change in mentality and allow both authorities and professionals to acquire better management and control skills.

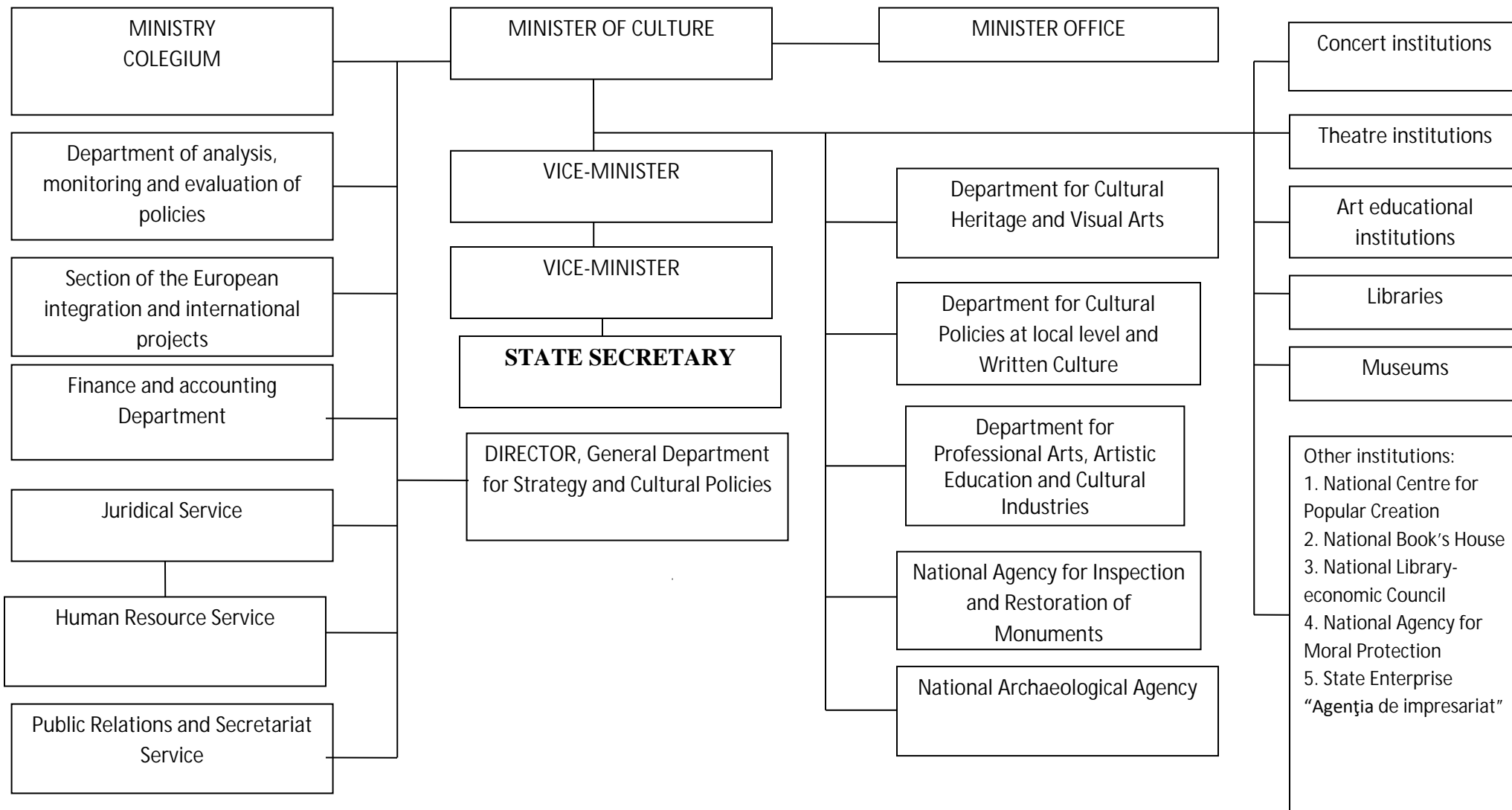
7. To create inventory and classification mechanisms for monuments. To introduce modern tools and digital databases that can be easily accessed and updated according to Council of Europe standards for architectural and archaeological ensembles.

A national system for documentation, evidence, conservation and protection of cultural heritage should be created.

8. To introduce public debate and awareness-raising in the process of drafting and approval of urban planning documentation for heritage sites in order to ensure public and private sector participation in the decision-making processes.

Urban planning documentation for heritage areas should be elaborated with the obligatory involvement of professionals in heritage protection and regeneration. The existing public consultation and awareness mechanisms in the preparation and approval of urban planning documentation are most likely formal in nature, they do not ensure the real involvement of civil society in decision-making. Efficient information campaigns should be introduced ensuring the involvement of the civic sector, business entities and residents. Awareness-raising should not be limited to the recognition of the importance of a monument, instead it should be focused on its use in close connection with its architectural or natural context, including its role in economic development and public services. Information technology and social media are extremely efficient in raising young people's awareness, familiarizing them with the European perception of the meaning of cultural values.

ATTACHMENT 1. The structure of Ministry of Culture of the Republic of Moldova



ATTACHMENT 2. Policy and legal framework for culture

1. List of ratified international conventions

- European Cultural Convention, Paris, 1954, ratified by the Parliament of the Republic of Moldova on May 24, 1994 <http://conventions.coe.int/Treaty/en/Treaties/Html/018.htm>
- European Convention for the protection of the archaeological heritage adopted at Valetta on January 16, 1992, ratified by the Parliament of the Republic of Moldova, December 2001 <http://conventions.coe.int/Treaty/en/Treaties/Html/143.htm>
- Convention for the protection of the architectural heritage of Europe of October 3, 1985, ratified by the Parliament of the Republic of Moldova on December 21, 2001 <http://conventions.coe.int/Treaty/en/Treaties/Html/121.htm>
- European Convention of landscape, adopted in Florence, 2000, ratified on 14.03.2002 <http://conventions.coe.int/Treaty/en/Treaties/Html/176.htm>
- Convention concerning the protection of the cultural and natural heritage (UNESCO, Paris, 1972) ratified by the parliament of the Republic of Moldova in June 6, 2002, Law no. 1113-XV from 06.06.2002 <http://whc.unesco.org/en/conventiontext/>
- Convention concerning the protection and promotion of diversities of cultural expression, Paris, 20.10.2005, 27.07.06 <http://www.unesco.org/new/en/culture/themes/cultural-diversity/diversity-of-cultural-expressions/the-convention/convention-text/>
- UNESCO convention concerning the safeguarding of immaterial cultural heritage, adopted in Paris, 2003, ratified on 24.03.2006 <http://www.unesco.org/culture/ich/index.php?pg=00006>
- Convention-plan of European Council concerning the value of cultural heritage for society, adopted in Faro, 2005, ratified on 01.12.2008 <http://conventions.coe.int/Treaty/EN/Treaties/Html/199.htm>
- UNESCO convention over the measures that follow to be taken for the prohibiting and impeding unlawful operations of import, export and property transfer of heritage goods, Paris, 4.11.1970, adhered on 14.09.2007 http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html
- The Convention for protecting cultural goods in case of armed conflict, along with Regulations of executing, adopted in Hague, on May 14, 1954 and the Protocol I at the Haga Convention, 1954, adhered on 09.12.1999 http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html

2. National culture legislation (laws; regulative acts, sector specific regulations)

Source: <http://justice.md/> (Romanian and Russian)

- Law concerning the archivist state Fund, no. 880-XII, 22.01.92
- Law concerning the protection of monuments, no. 1530-XII, June 22, 1993
- Law on libraries, nr. 286-XIII, adopted in 1994
- Law of culture, no. 413-XIV, May 27, 1999, in Monitorul Oficial of the Republic of Moldova, no. 83-86, August 5, 1999 <http://www.wipo.int/wipolex/en/details.jsp?id=9931>
- Law concerning museums, no. 1596-XV, December 27, 2002
- Law concerning popular art, no. 135-XV, March 20, 2003, in Monitorul Oficial no. 84 -86, May 16, 2003

- The Law on preservation archaeological heritage (no. 218, 17 September 2010). In: Monitorul Oficial al Republicii Moldova, Nr. 235-240, Anul XVII (376-3773), 3 decembrie 2010, Art. 738, pag. 8-17.
- Law on Protection of Public Forum Monuments, November 2011
- Law on the Protection of Intangible Cultural Heritage, 5 December 2011
- The Decision of the government of the Republic of Moldova no. 1111 of 11.09.2003 concerning the Rules of the state register of mobile cultural heritage; Rules for the organization and functioning of the national museum; Rules concerning the conservation of mobile cultural heritage.
- The Law on the protection of the intangible cultural heritage of the Republic of Moldova, 29.03.2012
- The Government Decision no. 230, Creation of the National Agency of Archaeology, 12.04.2012, <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=342932&lang=2>
- The Informatization Program of Culture, 2012, <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=344020&lang=2>
- The public policy *Improvement of the activity of the theatral- concert institutions based on performance*, 6 April 2012, aproved by the Inter-ministerial Committee for the Strategic Planning, http://www.mc.gov.md/sites/default/files/ppp- ministerul_culturii_final.pdf
- the policy *Improvement and modernization of museum activities*, approved within the Assembly of the Collegium of the Ministry (Order Nr. 251 from 08.11.2012), <http://www.particip.gov.md/libview.php?l=ro&idc=498&id=748>
- Program on decentralization of cultural sector, 2013.
- Regulation on the organization and functioning of the National Council of Historical Monuments, approved by the Government Decision no.73 of 31.01.2014.
- the Strategy for Development of Culture „Culture 2020”, approved on 09.04.2014 by the decision of Government nr. 271
- The Law On Cinema, on 03.07.2014, published on 1 August 2014 in *Official Gazette*, <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=354075&lang=2>
- Annual cultural grant contest for NGO’s of the Ministry is presented on the web-site <http://www.mc.gov.md/ro/content/concurs-proiecte-culturale-2015>
- Law no. 163 from 09.07.2010 regarding the authorization of the execution of the construction works
- Regulation on the consultation of the population in the elaboration and approval of the land and urban planning documentation. Government Decision no. 951, 14.10.1997. In the Official Gazette no. 076, 20.11.1997.
- Framework Regulation on the Activity of Local Authorities for Architecture and Urbanism, Government Decision no. 499, 0.05.2000. In the Official Gazette no. 065, 08.06.2000.
- Action plan to ensure compliance with the provisions of Law no. 835-XIII of May 17, 1996 on the principles of urbanism and landscaping and other related legislative and normative acts. Government Decision no. 633, 08.06.2004. In the Official Gazette no. 096, June 18, 2004.

3. Overall culture policies and/or sectorial strategies

- National Strategy for Cultural development “Cultura 2020”, adopted on 29.01.2014
- The Tourism Development Strategy “Turism 2020”, adopted on 19.05.2014

- The law concerning public administration, no. 123-XV, 18.03.2003, in "Monitorul Oficial" of the Republic of Moldova, no. 49, 19.03.2003
- Law concerning town-planning principles and territorial arrangement no. 835-XIII, May 17,1996
- Law concerning architectural activity, no. 1350-XIV, November 2, 2000
- The decision of the Republic of Moldova Government "Concerning the actions for the protection of the historical-cultural monuments of the museum complex "The Medieval Town of *Orheiul Vechi*" no. 1378 din 10.12.2001
- The decision of the Republic of Moldova Government no. 476, April 21, 2003 "Concerning the assignment of some grounds to the "Medieval, Museum Town Complex"
- Law Regarding the creation of the Orheiul Vechi cultural-natural Reserve, nr. 251-XVI, 04.12.2008
- The Decision of the Government of the Republic of Moldova "On creating the Orheiul Vechi cultural-natural Reserve", nr. 228, 23.03. 2009
- The Environmental Strategy for the years 2014-2023 and the Action Plan for its implementation approved by Government Decision no.301 of 24.04.2014.

4. Summary of laws with an impact on frame conditions: income tax, VAT, tax exemption for investments in culture, NGO registration, etc.

- The Law of Tourism no. 798-XIV of February 11, 2000
- Law No.835-XIII of 17 May 1996 on the principles of urbanism and spatial planning
- Law No.1538-XIII of 25 February 1998 on the state of nature reserves protected by the State
- - Regulation on natural and built protected areas, approved by Government Decision no. 1009 of 05.01.2000
- Law concerning investments in the activity of enterprise no. 81-XV of 18.03.2004
- *Law on NGOs*, No. 837, 17.05.96. In Monitorul Oficial al R. *Moldova*, no. 6/54, 23.01.1997
- Law concerning the adherence of the Republic of Moldova to the Statute of International Organization of Tourism, no. 530-XV of October 2001
- Law concerning the organization and development of tourist activity in the Republic of Moldova, no. 352-XVI of November 24, 2006
- The Decision of the government of the Republic of Moldova concerning the conception of tourist development in the Republic of Moldova until 2005, 912 of October 8, 1997
- The Decision of the government of the Republic of Moldova concerning the Strategy of long-term development of tourism in the Republic of Moldova in 2003-2015, no. 1065 of 02.09.2003
- The Decision of the government of the Republic of Moldova concerning the special Fund for the promotion and development of tourism, no. 705 of July 23, 2001
- The Decision of the government of the Republic of Moldova concerning the methodological Norms and the criteria of classification of the structures of tourist reception with the functions of accommodation and lodgings, no. 643 of 27.05.2003