

CENTER FOR COMBATING ECONOMIC CRIMES AND CORRUPTION
FROM THE REPUBLIC OF MOLDOVA

THE PRACTICE OF THE REPUBLIC OF MOLDOVA IN THE
FIGHT AGAINST CORRUPTION

The nowadays situation requires a special treatment of the problem of corruption in the state policy and implementation of radical measures in order to reduce the magnitude of this dangerous vice.

Legislative and institutional framework

Control, prevention and combating of corruption are priority elements of various programs based on certain engagements assumed before the international community (the RM-EU Action Plan, the Millennium Challenges, etc.). The unconditional political obligation to fight against corruption is also denoted by the implementation in the Republic of Moldova of the National Strategy for the Prevention and Combating of Corruption approved by the Decision of Parliament no. 421-XV dated 16 December 2004. It represents the anti-corruption policy of public authorities and the strategic framework of the activity of the Center.

The basic elements of the Strategy are:

- Combating corruption by effective and efficient application of criminal norms;
- Corruption prevention by elimination of its opportunities from systems and procedures of the public and law enforcement institutions;

- The education of all population categories in the spirit of intolerance towards corruption and encouragement of an active support from citizens in the corruption prevention and counteraction activity.

There is a detailed Action Plan, annually actualized, for the implementation of the Strategy. Both public authorities and civil society are involved in its implementation.

The legal framework of our country also includes:

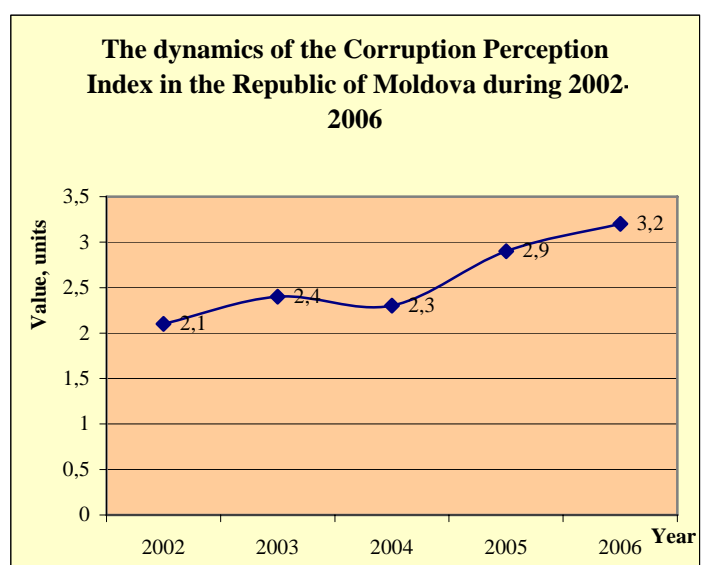
- Constitution of Republic of Moldova adopted on July, 29, 1994;
- Criminal Code, Law no. 985-XV, April 18, 2002;
- Criminal Procedure Code, Law no. 122-XV, March 14, 2003;
- Administrative Contraventions Code, March 29, 1985.
- The Decision of the Government on some measures to prevent corruption and protectionism (no.615 from 28.06.05);
- Law on Fighting Against Corruption and Protectionism (Law no.900, June 27, 1996);
- Law on Operative Activity of Investigation (Law no. 45-XIII, April 12, 1994);
- Law on Public Service (Law no. 443-XIII, May 4, 1995);
- Law on the Declaration and Monitoring of the Income and Assets of State Dignitaries, Judges, Prosecutors, Public Servants and Certain Persons holding Managerial Positions (Law no. 1264-XV, July 19, 2002).
- Law on State Protection of Victims, Witnesses and Other Parties in Criminal Proceedings (Law no.1458-XIII, January 28, 1998);
- Law on the Procurement of Goods, Works and Services for Public Needs (Law no. 1166-XIII, April 30, 1997).
- Law on the prevention and control of money laundering and terrorism financing (Law no.1166-XIII form 30th of April 1997).

An essential role in the prevention and combating of corruption plays the Center for Combating Economic Crimes and Corruption (CCECC), the main body in the country responsible for the prevention and combating of corruption, created in the basis of the Decision of the Government of the Republic of Moldova no.158 from the 11th of February, 2002. The Law no. 1104-XV on the Center for Combating Economic Crimes and Corruption was adopted on the 6th of June, 2002, and entered in force on the 27th of June, 2002. It grounds the organization and functioning of the institution.

The first results of these activities showed up at the end of the year 2005, they were evaluated in public discussions during the National Conference organized on 09th December 2005 with the theme „Progress and perspectives in combating corruption”.

The activities performed in the year 2006 were centered on the efficient combination and coordination of all elements of the Strategy: combating of corruption, prevention of this dangerous phenomenon and civil education. Simultaneously, the progress attained is to a high degree conditioned by the establishment of a constructive partnership between the local and central public authorities, civil society and private sector.

The year 2005 may be considered as a revolutionary stage in the fight against corruption and it continues in the year 2006 as well. This fact is confirmed by the increase of



efficiency in combating this malicious phenomenon and by the results achieved in the Corruption Perception Index.

This index, published annually by Transparency International, denotes modest progress in the field of prevention and combating of corruption in the country owing to the involvement both of public institutions, civil society and private sector into the fight against corruption.

Thus, in the year 2006, according to the data of TI, Republic of Moldova got the **81st place out of 163 countries covered by the listing**, the corruption Perception Index for the country being equal to **3,2**. For comparison, in the year 2005 Moldova was on the 95th place out of 159 countries, its index being at the level of 2,9. This fact to a considerable extent denotes both the political will of the government and the efforts of the civil society in the field of prevention and combating of corruption in the country.

One of the most important actions that facilitated the fight against corruption was the continuation of efficient implementation of the National Strategy for Prevention and Combating of Corruption in the Republic of Moldova (hereinafter referred to as NSPCC), approved by the Decision of Parliament no. 421-XV of 16th December 2004. By the implementation of annual action plans, the achieved results were to a substantial degree owed to the efficient combination of all available means for the combating of corruption: combating, prevention and collaboration with the civil society.

It is clearly understood that in order to assure an efficient anti-corruption process the state needs to develop and consolidate its capacities in various fields, inclusively:

- efficient and adequate legal framework;
- efficient institutional framework;
- pro-active and cooperative civil society;
- efficient collaboration at national, regional and international levels.

These very elements have been addressed with a special attention by the leaders of the country.

In order to improve the anti-corruption legislation and to adjust the national legal framework to the international standards, including to the community aquis against corruption, to the UN Convention Against Corruption, there was elaborated the **draft Law on the prevention and combating of corruption**. This draft was examined by the Council of Europe and its recommendations were fully accepted.

To assure a higher level of transparency and responsibility of public officials, to raise the efficiency of public system and consolidate the cooperation between public institutions and civil society there was elaborated a series of legal acts:

- draft **Law on ministerial responsibility**;
- draft **Law on specialty central public administration**;
- draft **Law on public service and status of public officer**;
- draft **Law on the conflict of interests**;
- draft **Law on the declaration of income, property and sources of income by the private persons – citizens of RM**;
- draft **Law on decisional transparency**;
- **Public Officer's Behavior Code**, approved by the Government on 02nd October 2006 and presented to the Parliament for examination.

In order to raise the efficiency and consolidate the capacities to monitor the money laundering activities and financing of terrorism, as well as in order to bring the national legislation in compliance with the relevant international provisions and recommendations, there was elaborated another **draft Law on the prevention and combating of money laundering and financing of terrorism**. Also there was elaborated and approved the **National Strategy for the prevention and combating of money laundering and financing of terrorism** that has to be implemented based on an Action Plan.

In order to minimize the opportunity for corruption in the processes of public procurements, as well as in order to optimize the mechanism of public procurements and to bring it in compliance with the requirements of World Trade Organization Agreement on public procurements and directives of European Union in this field, was adopted the **Law on public procurements**.

The possibility of influence of certain groups of interests over the organs of public authorities resulted in the need to elaborate a normative act that would regulate the phenomenon of lobbyism in the Republic of Moldova. There was organized a Round Table on this topic. The participants to the meeting concluded that such a draft law must be prepared after the performance of certain investigations in the relevant field.

Prevention of corruption

The objective reality has already proved the fact that corruption can not be stopped only by criminal and restrictive methods. The Prevention of corruption crimes is an extremely important aspect that may prevent the spreading of this social drawback, if properly employed. In other words, the preventive measures are focused not on the exterior manifestations of corruption but on the generating factors. So, the preventive activity is determined not only by the increase of public concern by the growing number of corruption crimes but also by the limited effect of criminal and suppressive measures of combating corruption.

The CCECC uses the following instruments in the view of diagnosing corruption acts:

- Assessment of corruption risk within institutions;
- Anti-corruption expertise of the legislation;
- Public opinion poll;
- Criminal analysis and prognosis.

The anti-corruption education is also among the most important preventive activities. It is carried out systematically by the Center's employees in cooperation with civil society.

The recent amendments of the legislation have directed the CCECC's corruption preventive activity towards **providing of anti-corruption expertise to the national legislation** and **assessment of corruption risk** within central and local public institutions.

Thus, at the end of the year 2006, CCECC in common with the NGO "Centre for Analysis and Prevention of Corruption (CAPC)" developed the **Methodology and the Guide for giving anti-corruption expertise to legislative acts**. The European experts (Jean Pierre Bueb and Quentin Reed) endorsed these acts, giving their high appreciation to the initiative and the quality of the documents. *They noted that Moldova was an example, from this perspective, for the countries of the European Union, as well as for the members of the Council of Europe.* The correct implementation of the methodology in its two stages of the legislative process (by CCECC at the elaboration stage and by CAPC before the Parliament adoption in its second hearing) will substantially contribute to the development of a coherent, simple and understandable legal framework. Moreover, this instrument will increase the capacity of the CCECC and the non-governmental sector to disclose the vulnerabilities to corruption and to the development of preventive measures by identifying the cases of omitting, repeating, and the ambiguity of the provisions of the legislation, as well as the possible corruption risks at the implementation level.

Cooperation with civil society

The achievements of the year 2006 are to a considerable extent owed to the active participation of community in the anti-corruption activities. Thus, was improved the process of common implementation of the anti-corruption strategy by

establishment of a constructive partnership between the civil society, central and local public authorities and private sector.

A special role in this process is played by the Anti-Corruption Alliance founded on the 10th January 2006. It is a voluntary association of non-governmental organizations having as major scope the reduction of corruption by direct involvement in the activity of prevention of this scourge.

Another important aspect was the efficient collaboration between the central public authorities and the law enforcement authorities in the respective field. The reciprocal exchange of information and collaboration with the law enforcement authorities allowed operatively covering the entire territory of the country and reacting promptly to the signals of citizens whose legal interests were encroached by the corrupt public officers.

On 13.01.2006, under the patronage of the Government was signed the Collaboration Agreement between the CCECC and the Anti-corruption Alliance for the sake of promotion and common implementation of anti-corruption activities. This event represents a new qualitative stage in the activity of CCECC that implies elaboration and assurance of an efficient medium of collaboration with the state and between the law enforcement authorities with the civil society.

The Monitoring of the Implementation of the National Anti-corruption Strategy

An important component of the implementation mechanism of the National Anti-Corruption Strategy is the efficient monitoring of performance of the measures provided in the Action Plan and implemented by the relevant bodies. According to the Strategy, this function is performed by the **Monitoring Group of the implementation of National Strategy for prevention and combating of corruption and Action Plan** approved by the Decree of the President of the Republic of Moldova no. 2231-III dated 17.02.2005.

Thus, the Center had accumulated and generalized the data obtained from the various institutions responsible for the implementation of activities provided in the Action Plan and presented it for examination at the sessions of the Group.

The Monitoring Group meets in working sessions where participate the leaders of central public authorities, law enforcement and control bodies, of TV and Radio Companies, NGOs and the national PACO Project Coordinator for Moldova.

In order to evaluate the completeness, the quality and efficiency of implementation of measures provided in the Plan, the Monitoring Group, during the sessions hears the reports of public bodies responsible for the carrying out of certain actions from the Strategy.

In order to verify the information presented by the responsible institutions, according to the Decision of Monitoring Group there are being established workgroups that check the activities of the reporting institutions on the implementation of the National Anti-Corruption Strategy. During the respective working visits the corruption risk is being evaluated being proposed specific measures for the improvement of anti-corruption situation.

International Cooperation

International cooperation is a very important component of the process of prevention and combating of the corruption phenomenon.

The international legal framework, where Moldova is a party, includes:

- UN Convention against Corruption, signed in September 27, 2004, ratified by the Law no. 158-XVI, July 6, 2007.
- Criminal Law Convention on Corruption, ratified in October 30, 2003, by the Law no.428-XV. In concordance with the Convention, the Criminal Code in force delimits corruption in public and private areas and defines notions of Passive and Active corruption;

- Civil Law Convention on Corruption, ratified by the Law no.542-XV, from December 19, 2003;
- Additional Protocol to the Criminal Law Convention on Corruption, ratified by the Law no. 157 from July 6, 2007.
- The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the financing of terrorism, ratification act: Law no.914-XV, March 15, 2002;

There should also be mentioned the participation of the Republic of Moldova in the **Anti-Corruption Initiative of the Stability Pact for the South-Eastern Europe (SPAI)**. Taking into consideration the objectives and recommendations of SPAI, the activities aimed at suppression of corruption at regional level fit harmonically into the process of European integration, constituting a considerable part of it.

A very important role in the monitoring of use of international legal instruments is played by the **Group of States Against Corruption (GRECO)**. In the year 2006 there was carried out the second anti-corruption evaluation cycle of the Republic of Moldova. Based on the Report for the Republic of Moldova there were elaborated and presented 15 recommendations that must be implemented not later than the 31st of May 2008.

The CCECC became a member of the **International Association of Anti-Corruption Authorities**, in October 2006, at Beijing, China, during the First Annual Conference and General Assembly. It has the scope of facilitation and of efficient implementation of UN Convention against Corruption.

Conclusions:

During the last two years of activity, the CCECC proved its capacity of development of its own anti-corruption policies.

The multitude of actions implemented by the Moldavian authorities aimed at combating corruption has been evaluated by the GRECO experts during the

Second Evaluation Cycle for Moldova. So, it was mentioned that Moldova has made a considerable improvement in reforms and numerous laws were adopted in all fields of activities. Many things are still waiting to be done.

The perspective priorities in the combating of corruption include the Action Plan for 2007-2009 for the implementation of National Anti-Corruption Strategy and Preliminary Country Plan for the Republic of Moldova for the years 2007-2008 within the Program „Millennium Challenge Account”.

The Action Plan for the years 2007-2009 of implementation of National Anti-Corruption Strategy includes the following activities:

1. Elaboration of drafts of normative acts for the facilitation of prevention and combating of corruption;
2. Consolidation of capacities of all institutions responsible for the enforcement of criminal legislation;
3. Raising the efficiency of institutional system;
4. Prevention of corruption in the public administration;
5. Anti-corruptive education of public officers;
6. Optimization of controls and collaboration with law enforcement authorities;
7. Assurance of transparency in the public sector;
8. Implementation of international instruments of EU, CoE, UN, OECD, etc.

The basic element of the Preliminary Country Plan is the consolidation of capacities for the prevention and control of corruption. For this scope were selected five main areas that fit well in the general corruption prevention and combating effort:

1. Consolidation of capacities of the judiciary system in the prevention and combating of corruption;
2. Consolidation of monitoring capacity of the civil society and mass-media;
3. Prevention and combating of corruption in the health care sector;

4. Prevention and combating of corruption in the fiscal administration, customs and police authorities;
5. Reformation and optimization of activities of the Center for Combating Economic Crimes and Corruption.

In the implementation of objectives set out in the National Strategy, Moldova benefits of the support of the Council of Europe and European Commission, Swiss Development Agency. On 31st October 2006 was launched the MOLICO project, a project against corruption and money laundering. Financing from the Corporation „Millennium Challenge Account” will complete the efforts of the donors and consolidate the Government's capacity to implement a series of reforms necessary for providing an efficient control upon corruption.

The efficient implementation of Anti-Corruption Plans will improve the achievements of the country in Combating of Corruption and will serve as a real premise for social and economic development and will assure the acceptance of the Republic of Moldova into the family of countries with strong democratic values.