THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY MOLDOVA

ARTICLE 9, PARAGRAPHS 2 AND 3 UNCAC

MANAGEMENT OF PUBLIC FINANCES

MOLDOVA (SIXTH MEETING)

In relation to measures to promote transparency and accountability in the management of public finances:

a. measures providing for transparent and public procedures for adopting of the national budget, that specify the type of information required as part of the submission to the legislature, with opportunity for public input and debate

Law no. 181 of 25.07.2014 on public finances and budgetary-fiscal accountability provides for clear procedures and the steps to be undertaken in the process of elaborating, endorsing, consulting, adopting the national public budget (articles 50 – 54).

In 2012, the Independent Analytical Centre EXPERT-GROUP has developed the study "Evaluation of transparency of the budgeting process in Moldova", where was calculated the Budget Transparency Index (BTI) based on the methodology that is developed by the International Budget Partnership (IBP) and is used by IBP for conducting the biennial "Open Budget Survey". The aim of this study was to conduct a quantitative and qualitative evaluation of the transparency of the budgeting process in the Republic of Moldova and to get a clearer picture on the country’s position compared to other countries in the world. As a result of the study, the BTI in Moldova was 60 points out of the 100 possible. This means that the budgeting process in Moldova is transparent to the public and is very close to the qualification of "best practices".

The index has increased in the period of 2012-2015 also due to the taking into consideration and implementation of expert recommendations. In 2015, in view of improving the transparency of the national public budget and its components, as well as increasing public accessibility to this information, the Ministry of Finance has initiated the “Budget for citizens” format, within the framework of developing the budget for 2015. The format presents brief data on the budget and the economic and budgetary indicators that determine its creation. The “Budget for citizens” can be accessed on the official website of the Ministry of Finance.

The transparency of the budgeting process at the first stage - the stage of development of the medium-term budgetary framework (MTBF) and the subsequent development of the draft state budget - is ensured by the following measures: informing all stakeholders, publishing and consulting materials, organizing the working sessions of the MTBF Steering Group, which includes representatives of the social partners and the civil society, as well as organizing the meetings of the Working Groups. In developing the
MTBF, the Ministry of Finance administers the MTBF Steering Group and the inter-sectorial working groups. The Ministry of Finance also participates in the sectorial working groups, where the respective public authorities ensure the access to information at the sectorial level.

The policies that are developed with the MTBF can provide for the development of draft amendments to legal and regulatory acts, which can be accessed on the official web-page of the Ministry of Finance.

**b. measures ensuring that reporting on revenue and expenditure is public, timely and regular, and that there are consequences for the responsible agency and officials for failure to report at all or in a timely fashion**

Law no. 181 of 25.07.2014 on public finances and budgetary-fiscal accountability Article 47. The budgetary calendar establishes the dates for public reporting

(1) At central level, the main activities and deadlines of the budgetary calendar are the following:
   a) the Government approves the medium – term budgetary framework and submits to the Parliament the draft law on the medium-term macro-budgetary limits and the draft law for the amendment of certain legislative acts, if necessary, - up to 1st of June;
   b) the Parliament adopts the law on the medium-term macro-budgetary limits and amendments to the legislation, if necessary, resulting from the budgetary-fiscal policy for the next year -up to July 15;
   c) the Government submits to the Parliament the semi-annual report on the execution of the national public budget and its components for the current budgetary year – up to 15th of August;
   d) the Government approves and submits to Parliament the draft budget laws for next year – up to 15th of October;
   e) the Parliament adopts the budget laws for the next year – up to 1st of December;
   f) the Ministry of Finance, the National House for Social Insurance and the National Company for Health Insurance develop and submit for audit to the Court of Accounts the annual reports on the execution of the state budget, the state social insurance budget and mandatory health insurance funds – up to 15th of April of the year after the closed budgetary year;
   g) the Court of Accounts performs the audit of annual reports on the execution of the state budget, state social insurance budget and mandatory health insurance funds for the closed budget year and submits the audit report to the Government – up to 1st of June;
   h) the Government submits to the Parliament the annual reports on the execution of the state budget, state social insurance budget and mandatory health insurance funds for the closed budget year – up to 1st of June;
   i) the Parliament approves the annual reports on the execution of the state budget, state social insurance budget and mandatory health insurance funds for the closed budget year – up to 15th of July.
(2) At the local level, the main activities and deadlines of the budgetary calendar are the following:
a) the local executive authority develops and submits to the local council the draft local budget for the next year – up to 20th of November;
b) the local council adopts the local budget for the next year – up to 10th of December;
c) the local executive authority submits to the local council the annual report on the execution of the local budget for the closed budget year – up to 15th of March;
d) the local council approves the annual report on the execution of the local budget for the closed budget year – up to 1st of April.

(3) The intermediary activities and their deadlines in the budgetary calendar are established by the Ministry of Finance.

Regarding the reporting by the Court of Accounts, art. 8 of the Law no. 261 of 05.12.2008 on the Court of Accounts provides the following:

The Court of Accounts submits annually to the Parliament the following:
a) up to 15th of March, the financial report on the execution of the budget of the Court of Accounts from the expired budget year;
b) up to 10th of October, the report on the administration and use of public funds and public property, which is examined in the plenary of the Parliament.

Public reporting on revenues and expenditures is carried out regularly. Monthly, quarterly and annual reports regarding the execution of the national public budget are placed on the official website of the Ministry of Finance.

At the beginning of 2010, the World Bank has launched the public expenditure database BOOST, which aims at increasing the transparency and efficiency of public expenditures by improving access to information on government spending and linking costs to relevant results. In Moldova, the BOOST database was built at the request of the Ministry of Finance, based on the treasury data offered to the World Bank by SE "Fintehinform". The database comprises variables that correspond to different administrative classifications in the Moldovan budget.

c. measures ensuring that effective system of accounting and auditing is put in place and that there is effective oversight over the budgetary revenue and expenditure with regular training and accreditation requirements for government accountants and auditors

The Court of Accounts of the Republic of Moldova, as the only state public authority that controls the formation, administration and use of public funds and the administration of public property through external audit in the public sector as the supreme institution of audit, activates under the provisions of the Constitution of the Republic of Moldova, the Law no. 261 of 05.12.2008 and the international auditing standards INTOSAI. The auditors of the Court of Accounts gain their qualification of public auditor based on a certification procedure established through an internal regulation of the institution. At the same time, the auditors of the Court of working groups, meetings, seminars, EUROSAI and INTOSAI conferences, to which the institution is a member since 1994. Currently, the Court of Accounts is supported in strengthening its institutional and external public audit capacities within 3 inter-correlated technical assistance projects:
1) Project of the National Audit Office of Sweden (III-d stage: 2013-2015),
2) Twinning project (launched on 09.09.2014 with the partnership of Finland and Spain)
3) Project for strengthening the capacities of the Court of Accounts, financed by the World Bank, launched in the 1st semester of 2014 and planned to finalize in November 2015.

In view of implementing the provisions of art. 10 par.(4) of the Law no. 90-XVI of 26.07.2007 regarding the prevention and combating of money laundering and terrorism financing, reporting entities (auditors) were informed regarding money laundering and terrorism financing transactions by means of the Financial Action Task Force (FATF), Declarations on the states that face strategic challenges in the domain of preventing and combating money laundering and terrorism financing, Resolution 2170 of the United Nations Security Council Condemning Gross, Widespread Abuse of Human Rights by Extremist Groups in Iraq and Syria, the Declaration of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) of 1st of June 2014, including the public Declaration of the 3rd stage MONEYVAL compliance enhancing procedures for Bosnia and Herzegovina, all being placed on the official website of the Ministry of Finance. The information has also been offered to professional associations in the domains of accounting and audit, for their subsequent dissemination to their members.


d. measures ensuring that an effective and efficient system of risk management and internal control is put in place, with clear allocation and description of the roles and responsibilities and description of how the offices responsible for risk management and internal control maintain, organize and store records

Performance and risk management within public entities is implemented according to the Law no. 229 of 23.09.2010 on public internal financial control and the National standards for internal control in the public sector, approved by the Decree of the minister of finance no.51 of 23.06.2009. In this context, public entities systemically identify, assess, record and monitor risks that may affect the achievement of objectives and the carrying out of planned performances and develop measures to mitigate the likelihood of risks and/or their impact.

Consequently, the results of the self-assessments at the „risk management” compartment, carried out on 31.12.2014 by central public administration, the National House for Social Insurance and the National Company for Health Insurance have registered the following results:
- 12 authorities assess the impact and likelihood of risks, prioritize the assessed risks, determine the levels of tolerance to risks, carry out the control of the identified and
evaluated risks, and have a mechanism for monitoring and reporting risks; these institutions have designated persons responsible for identifying, assessing, recording, monitoring and reporting risks and document the risk management process;

- 8 authorities assess the impact and likelihood of risks, prioritize the assessed risks and document the risk management process;

- 4 authorities have not developed a mechanism for identifying, assessing, registering and monitoring risks.

Additionally, the Ministry of Finance has created the group for the self-assessment of corruption risks by decree no.91 of 07.07.2010, in view of implementing the provisions of section 2 of the Government Decision no. 906 of 28.07.2008 „on the approval of the Methodology for the assessment of corruption risks in public institutions”.

The self-assessment has been carried out in the period 2009-2011 and has resulted with the development of an Integrity Plan, adopted by the Decree of the minister no.84 of 17.07.2012 and placed on the official website of the Ministry of Finance www.mf.gov.md/anticorrupt/plan.

The Court of Accounts also carries out the auditing of the systems of internal control1, the main objective of which is the promotion of increased managerial accountability for the use of public funds. Internal control also involves the internal audit for managing risks and for offering reasonable assurance of achieving planned objectives and results, with the purpose of ensuring good governance2. Managerial accountability3 represents the instrument which, if constantly applied, ensures the elimination of the risk of fraud, corruption and other irregularities. It involves the accountability of a manager for all 5 components of the Financial Management and Control (FMC) system in the public sector: control medium, performance and risk management, control activities, information and communication, monitoring and evaluation, as well as internal audit4.

One of the main objectives of the audit missions, organized and carried out by the public external auditors in the period of reference, was the evaluation of the organization, implementation and maintenance of the FMC system, of internal audit and the detection of the causation between the obtained results and the deficiencies/irregularities that were revealed in the activity of the audited entities. The audit has also identified the conditions of the internal control system which could cause errors or malfunctions in the administration of the public funds of the verified entities. The audit results have revealed the fact that, although the evaluation of public internal financial control, including internal audit within the FMC in the public sector, has shown an ascending trend in the last period, there are still deficiencies generating several problems in the organization,

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1 Art. 28 par. (1) letter.h) of the Law on the Court of Accounts.
2 Good governance – mode of governing that ensures the achievement of objectives under the principles of transparency and accountability, economy, efficiency and efficacy, legality and equitability, ethics and integrity (Law no. 229 of 23.09.2010).
3 Managerial accountability – awareness by the manager of the entity and his undertaking of responsibility for the promoted actions, decisions and policies, including for the maximization of results through the optimization of resources, based on the principles of good governance, as well as the obligation to report on the achieved objectives and results (Law no.229 of 23.09.2010).
4 Art.5 par. (2) of the Law no.229 of 23.09.2010 on public internal financial control.
implementation and development/strengthening of this process. The following deficiencies can be mentioned:

✓ although according to the Declaration on good governance issued by public entities managers claimed that the FMC system in the institution is organized, implemented and operational, the audit has found that the institutionalization of the system is largely at the stage of preparation or implementation. Working groups have been instituted, the description of basic/operational processes has been identified or initiated and certain control procedures and activities have been established and described.

✓ the tendency of formal implementation of control in several entities; only a few documents (operational procedures, risks register etc.) have been developed, these lacking application in practice or being non-functional, conditioning their decreased efficiency;

✓ although risk management is a necessary tool for the administration of the public entities for correct and optimal decision making in the conditions of economic risk and uncertainty, its absence or insufficient development within the FMC system invokes the consequence of a static risk management mechanism, which does not achieve its established objectives;

✓ there were identified cases when the instituted internal audit units have not been functional and lacked qualified personnel in the reference period, due to diverse causes as insufficiency of professional capacities, small salaries;

✓ there were identified cases of double subordination of internal audit, as consequence of its inclusion within other subdivisions, which is contrary to the legal provisions and affect the objectivity, independence and efficiency of the internal audit activity;

✓ there were attested situation when the internal audit activity has also involved operational tasks, incompatible with legal attributions, which suggests the unclear understanding of the essence and importance of the internal audit activity.

In this context, it has been concluded that, even though the basic regulatory framework for the FMC system has been approved, it is not completely functional and the concept of managerial accountability is not wholly implemented. The actual system for managing public finances most often functions in a centralized decision making framework. In view of remedying this situation, it is necessary that public entities ensure the institution of a result-oriented management system that is correctly managing the allocated public finances, eliminating major risks and accentuating performance. This requires the clear definition of annual and strategic activity objectives, planned results and impacts. The managers of the public entities must ensure the independence between the annual activity and the established objectives. In this way, the administration of public entities is accountable for the implementation of certain procedures for verifying the correctness/performance of the financial management and the economic-financial processes related to the management of public funds.

The efficient activity of the internal auditor depends on their professional activity and on their motivation, which is presently inferior to the tasks and responsibilities of their function.
The Court of Accounts has submitted several recommendations on measures to be undertaken for remedying the deficiencies/gaps that have been detected in the organization, implementation and development/strengthening of internal control, which will essentially contribute to the improvement of the management of public funds.

e. measures providing for corrective action in case of failure to comply with the legal requirements, with description of the procedure for oversight and implementation

The Law no. 41 of 27.03.2014 has resulted with certain amendments in the legislation with the establishment of contravention liability for the non-execution of the decisions of the Court of Accounts. The Court of Accounts has obtained the state of ascertaining agent.

Art.I. – the contravention code of the Republic of Moldova no. 218-XVI of 24.10.2008 (Official Monitor of the Republic of Moldova, 2009, no.3-6, art. 15), with the ulterior modifications, is modified and completed as follows:
1. After article 3191 is introduced the article 3192 with the following content:
“Article 3192. Non-execution of the decisions of the Court of Accounts
The actions or inactions of the persons with managerial functions who, without good reason, do not implement the decisions of the Court of Accounts within the established terms will be sanctioned with a fee from 200 to 350 conventional units”
2. Article 349 is completed with paragraph (5) with the following content:
“(5) Non-submission, without good reason, of the data, information, acts and documents that are requested by the Court of Accounts in the legal conditions and terms will be sanctioned with a fee from 100 to 150 conventional units applied to the person with a managerial function.”
3. To article 385 paragraph (2), text “400-4232” is substituted with “400-4236 ”.
4. To article 393 letter d), text “400-4235” is substituted with “400-4236 ”.
5. After article 4235 is introduced the article 4236 with the following content:
“Article 4236. Court of Accounts
(1) The contraventions provided in art.3192 and art.349 par.(5) are ascertained by the Court of Accounts.
(2) The public personnel of the Court of Accounts, that is authorized with auditing attributions has the right to ascertain contraventions and to carry out protocol procedures.
(3) Protocols on contraventions are submitted for substantive examination to competent court.”

Art.II. – the Law no. 261-XVI of 05.12.2008 on the Court of Accounts (Official Monitor of the Republic of Moldova, 2008, no. 237-240, art.864), with ulterior modifications, is completed as follows:
1. To article 26, paragraph (2) is completed with letter e) with the following content:
“e) to ascertain contravention acts.”
2. Article 36 is completed with paragraph (3) with the following content:
“(3) the non-implementation of the decisions of the Court of Accounts attracts contravention liability under the law.”
With regard to the monitoring procedure, the Court of Accounts applies the procedure in conformity with the provisions of an internal regulation that has been approved as a normative act by the plenary of the Court of Accounts.

**In relation to civil and administrative measures to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue to prevent the falsification of such documents**
The security of accounting books, records, financial statements and other documents related to public expenditure and revenue, is regulated by Law of accounting no. 113-XVI of 27.04.2007. The Ministry of Finance develops the model Accounting policy for public institutions, these being obligated to develop and approve their Accounting policies base on the model. Based on Law no. 133 of 08.07.2011 on the protection of personal data and the conditions for ensuring the security of personal data upon its management within informational systems for personal data, approved by Government Decision no.1123 of 14.12.2010, each public institution must develop and approve the Institutional security policy for the secure application of all informational systems that are used by the institution.

Within the Court of Accounts, the security policy for the accounting system provides for the following:

"**Soft-Contabil**” Accounting system
Bookkeeping is used in electronic format by the Finance and budget service. The head of the Service (chief accountant) is responsible for the system. The system has been used since 2011. The objective of the system is the bookkeeping of the Court of Accounts. The system is permanently used.
The persons holding access to the data in the “Soft-Contabil” system are:
- the President of the Court of Accounts;
- head and staff of the Finance and budget service; - internal and external auditor;
- bodies that are authorized by law (Ministry of Finance, control bodies, BC Moldova AgroindBanc SA).

**Communication challenges between government bodies, agencies responsible for integrity in procurement and management of public finances, and business community representatives:**

Communication and coordination challenges are generally conditioned by the lack of a centralized informational system that would provide for data exchange between institutions. More detailed information on this subject can be found in the audit report on informational technologies approved by the Court of Accounts, among which is the Decision no. 46 of 14.09.2012 on the Audit report on informational technologies with performance elements on the subject of „Identified problems and risks, which could affect the e-Transformation agenda of the Government“
Financial challenges with respect to maintaining sufficient and consistent funding for government bodies and other government agencies responsible for integrity in procurement and management of public finances:

In the conditions of a limited budget approved for the institutions which will have financial autonomy under law and their principles of activity, it cannot be confirmed that sufficient financing is ensured for the efficient functioning of the supreme state audit institution.

Currently, the Court of Accounts benefits from 3 external assistance projects, which have been described above. At the same time, it is necessary to initiate discussions on the identification of support for the development of a centralized informational system which would ensure the automation of audit activity and the exchange of relevant data and information with the main stakeholders involved in the process of managing public finances (planning, execution, administration, collection etc.)