



MOLDOVA and EU
in the European
Neighbourhood Policy Context

Implementation of the EU-MOLDOVA Action Plan

(February 2005 – January 2008)

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**Moldova and EU in the European Neighbourhood Policy Context
Implementation of the EU-Moldova Action Plan (February 2005 – January 2008)**

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PREFACE

This volume is published over the three-year initial deadline of the European Union – Moldova Action Plan (EUMAP). Lots of developments have been noticed in the period concerned, with some of them being unexpected both for internal evolutions within EU and its partners. The last one has had a direct impact on the evolution of the European Neighbourhood Policy (ENP), which has influenced much the initial expectations and conduct of ENP-covered countries.

The monitoring of the EUMAP implementation has revealed a series of important facts linked to accomplishments and obstacles, but it could not forecast further European evolutions for the Republic of Moldova. Establishing internal and external monitoring and assessment criteria by the European Commission have been rather left on account of reason. Regarded in a regional context, developments in Moldova cannot avoid a reference to the implementation of the EU-Ukraine Action Plan and evolution of bilateral relations of our western and eastern neighbours, given the importance of Ukraine for regional stability at EU borders, in particular, for the Transnistrian settlement. As Moldova hesitated to adopt new foreign and security policy concepts and strategies to meet new realities, it does not have other reference points for its conduct but those established by EU on one hand and Ukraine on the other hand. Given Ukraine's conduct, its European stake is tightly correlated with the Euro-Atlantic stake. The second factor gives an additional weight to pro-European aspirations of Ukraine, as well as to replying reactions by the EU. In this light, Moldova is a pro-European contextual enclave rather than a conscious and active player in reaching the established goals.

As regards internal developments, the monitoring of the EUMAP implementation has revealed a strong attenuation of initially exaggerated expectations by authorities and entire political class towards the mobilising potential of EUMAP and the impact on further integrationist evolutions. This occurred in spite of a promising start related to the consensual voting of the *Declaration on the political partnership for achieving the objectives of European integration* by Moldova's Parliament on March 24, 2005, a month after the EUMAP was signed on February 22, 2005. Regretfully, an excellent opportunity to turn the European integration idea into a *national consolidation idea*, a central pivot around which political forces would compete to make clear which of them could promote the European integration easier, was failed.

External and internal reasons why the impact of European policies to strengthen the Moldovan society has reduced are well-known. In contrast with actions and mobilising baits received by Central and Eastern European countries within European Agreements, Moldova has got encouraging and consoling messages packed in a diplomatic language and placed in a context of EU intentions to "consolidate" and "revive" the ENP. But implicit EU messages regarding assessment of progresses in implementing the EUMAP have been quite eloquent. No exceptional analytical skills are required to interpret messages such as: "the implementation level of the EUMAP is the one felt by common citizens of Moldova"; "before invoking the need of new documents managing Moldova's relations with the EU, it should be realised that self-perfection within the EUMAP is limitless"; "the Republic of Moldova has achieved important progresses in all areas, except for the independence of the judiciary, freedom of the media, respect for human rights, anti-corruption fight, and attractive investment climate"; "Moldova adopts good laws, but it has a poor enforcement record," etc.

After such assessments, one cannot draw other conclusions but the one that the Republic of Moldova has a very weak administrative capacity, otherwise how to interpret the poor enforcement record of good laws? The political unwillingness to appropriately implement good laws is the only alternative explanation, or, on the contrary, there is an interest for conducts which do not fit the declared pro-European policies. There are no other explanation for remarks by European dignitaries and findings of monitoring reports, which signal the influence of the political factor on the judiciary and administration, control and manipulation of the media, obstruction of fair elections. In order to remedy the shortcomings in these areas, the governance should stop abusive meddling. The general conclusion regarding the engagement of the governance in implementing the ENP is the following: the goal of keeping the power is more important than the general objective to bring Moldova closer to EU standards. Perhaps this factor has reduced the potential of the European integration idea as a *national consolidation idea*.

In spite of those mentioned above, the implementation of the EUMAP has yet offered numerous opportunities for public engagement under the governance responsibility aspect in promoting very specific goals such as the monitoring of how the government honours its commitments by civil society groups and a number of international agencies. In this respect, an opportunity was linked to ways of cooperation between public institutions and civil organisations, revealing that this kind of cooperation may develop in Moldova rather under the pressure of commitments toward European partners. In spite of many difficulties, the least the Parliament and the Ministry of Foreign Affairs and European Integration have advanced in cooperation with civil society, though the way they cooperated revealed the poor capacity of civil society to be efficient in this process. The preference of civil organisations to be “watchdogs” in the detriment of the role of equal and competent partners is probably linked to their qualification and experience.

The implementation of the EUMAP was certainly an effort to modernise Moldova. Regardless of the assessment on EUMAP implementation, this document is positive but insufficient. Under these conditions, the representatives of the Moldovan political class who signed the *Declaration on the political partnership for achieving the objectives of European integration* should continue reforming and modernising the society in order to reach the E.U. standards. The discrepancy between modernisation of Moldova and minimum EU standards imposes Moldovan political forces to make their agendas, focusing on the pressing need to remedy the handicaps rather than on doctrinaire subtleties. From this point of view, the primary imperative of the democratic political race should reduce to a competition to optimise the speed and costs, as other goal worthy of citizens’ support is unavailable.

CHAPTER I – EUROPEAN NEIGHBOURHOOD POLICY

1. Reasons of ENP formulation

ENP is in very practical terms a way for EU to ensure three foreign policy priorities on its neighbourhood: keeping away from new enlargement waves on short and medium term, reducing problems in neighbourhood and protecting it against these problems, and transforming (“Europeanisation”) of neighbouring countries accordingly to European values.

In the light of this pragmatism of EU, ENP may be regarded as an alternative to the EU enlargement. It is fairly noted that ENP was launched as a result of the EU “enlargement fatigue”. At the same time, although it is not linked to enlargement, ENP does not shut the door to European countries which could apply for EU accession in future.¹

In connection with the above stated, however, the security interests of an enlarged EU are the key reason of ENP.² ENP is built on the premise that “by helping our neighbours we help ourselves.”³ The December 2003 European Security Strategy indicates the same strategic interest of EU and says that “strengthening the security in neighbourhood” is one of the three strategic objectives of EU.⁴

The “Europeanisation” dimension is another important aspect of ENP. EU is trying to “Europeanise” both its member states and the area around itself. ENP may be regarded as “a form of external governance” which consists in extending EU values, standards and policies but avoiding access to its fundamental institutions. The way EU is acting recalls the strategy it had implemented during its enlargement. EU is using in the ENP articulation process certain tools derived from pre-accession process, including Action Plans, with conditionality, regular monitoring elements to succeed to an integration based on the European Economic Area (EEA) model; that means “as close as possible to the EU but no membership.” However, many observers question whether the envisaged ENP mechanisms of Europeanization in the EU’s neighbourhood will work in the absence of membership as a target.⁵

¹ Verheugen, G. (2004), *The European Neighbourhood Policy*, Speech/04/141, <http://europa.eu.int/rapid/pressReleasesAction.do?reference=SPEECH/04/141&format=HTML&aged=0&language=EN&guiLanguage=fr>; Ferrero-Waldner, B. (2004), *Press Conference to launch first seven Action Plans under the European Neighbourhood Policy*, Speech/04/529, http://www.europa.eu.int/comm/external_relations/news/ferrero/2004/sp04_529.htm.

² Stetter, S. (2005), ‘Theorising the European Neighbourhood Policy: Debordering and Rebordering in the Mediterranean’, *EUI Working Papers*, RSCAS nr. 34, http://www.iue.it/RSCAS/WP-Texts/05_34.pdf; Scott, J. W. (2005), ‘The EU and Wider Europe: Toward an Alternative Geopolitics of Regional Co-operation?’, *Geopolitics*, 10, pp. 429-454.

³ Ferrero-Waldner, B. (2005), *The European Neighbourhood Policy: helping ourselves through helping our neighbours*, Speech/05/658, <http://www.europa.eu.int/rapid/pressReleasesAction.do?reference=SPEECH/05/658&format=HTML&aged=0&language=EN&guiLanguage=en>.

⁴ Solana, J. (2003), *A Secure Europe in a Better World – European Security Strategy*, <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>.

⁵ Cremona, M. (2004), *The European Neighbourhood Policy: Legal and Institutional Issues*, http://iis-db.stanford.edu/pubs/20738/Cremona-ENP_and_the_Rule_of_Law.pdf; Lynch, D. (2004), *The European Neighbourhood Policy*, http://eurojournal.org/files/dov_prague.pdf.

2. ENP evolution

2.1 ENP origins

The ENP origins date to early 2002 when some Northern member states, especially the United Kingdom and Sweden, asked the European Commission to make proposals to mitigate the exclusion effects of the imminent enlargement for Ukraine, Moldova and Belarus. As a result, in August 2002, a joint letter to the Council by the Commission and High Representative for Common Foreign and Security Policy expressed the necessity of a 'wider Europe initiative' to be aimed at future EU's Eastern neighbours. Soon after, different European institutions have reiterated successively this necessity.

The EU General Affairs and External Relations Council (GAERC) stated at its meeting in November 2002 that "enlargement presents an important opportunity to take forward relations with the new neighbours of the EU which should be based on shared political and economic values." The GAERC has also remarked "the need for the EU to formulate an ambitious, long-term and integrated approach" towards Ukraine, Moldova and Belarus "with the objective of promoting democratic and economic reforms, sustainable trade and trade, thus helping to ensure greater stability and prosperity at and beyond the new borders of the Union."⁶ The GAERC has mentioned as well that "the new neighbourhood initiative" should be seen in conjunction with the EU's strong commitment to deepen the cooperation with Russia.

The December 2002 Copenhagen European Council endorsed the GAERC conclusions and added that the EU "remains determined to avoid new dividing lines in Europe" and included the southern Mediterranean countries to be regarded by the "new neighbourhood initiative" as well. The European Council welcomed also the intention of the Commission and the High Representative for CFSP to prepare more detailed proposals on how to take this initiative further.⁷

2.2 "Wider Europe" Communication

On March 11, 2003, the Commission presented its Communication to the Council and the European Parliament *Wider Europe – Neighbourhood: A new Framework for Relations with Our Eastern and Southern Neighbours*.⁸

In accordance with the decision by the European Copenhagen Council, the Communication refers to the EU relations with Algeria, Palestinian Authority, Belarus, Egypt, Russian Federation, Jordan, Israel, Lebanon, Libya, Moldova, Morocco, Syria, Tunisia and Ukraine – countries that do not have the perspective to join the EU. In this respect, the Communication stipulates "a response to the practical issues posed by proximity and neighbourhood should be seen as separate from the question of EU accession." At the same time, the document states that the overall goal of the new Neighbourhood Policy would be working with the above partner countries to foster the political and economic reform process, promote closer economic integration, sustainable development, and provide political support and assistance.

⁶ EU Council (2002), 2463rd Meeting of the General Affairs and External Relations Council, 14183/02 (Presse 350), 18 November, http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/gena/73248.pdf;

⁷ Copenhagen European Council (2002), *Presidency Conclusions* (Par. 22-25), http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/73842.pdf;

⁸ European Commission (2003), *Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, http://ec.europa.eu/comm/world/enp/pdf/com03_104_en.pdf;

The logic of the document is well-known: in return for concrete progress demonstrating shared values and effective implementation of political, economic and institutional reforms, the EU would offer to its neighbours a range of opportunities such as: closer economic cooperation with the EU; a stake in the EU's Internal Market; preferential trading relations; liberalisation of the free movement of persons, goods, services and capital; cooperation to prevent and combat common security threats; greater EU political involvement in conflict prevention and crisis management; greater efforts to promote human rights; integration into transport, energy and telecommunication networks; new sources of finance; etc.

The document specifies that the EU's engagement would be introduced progressively, and would be conditional on meeting agreed targets for reform. New benefits would be offered to reflect the progress made by each partner country in political and economic reform. Thus, the progressiveness and differentiation are seen as defining principles of the new Neighbourhood Policy. In opposition with the positive spirit of these principles, researchers on European affairs remark that as "wider Europe" puts very different countries in one basket, the EU's attitude may even lead to discrimination instead of differentiated cooperation.⁹

According to the "Wider Europe" Communication, the main instruments in approaching EU relations with its neighbours within the new Neighbourhood Policy would be the Action Plans. Another element of the Communication is a new financial instrument.

The GAERC welcomed the "Wider Europe" Communication in June 2003 and invited the Commission to present a new Communication on the concept of a new Neighbourhood Instrument. The Thessaloniki European Council from June 2003 endorsed the GAERC conclusions.

2.3 European Neighbourhood and Partnership Instrument

In July 2003 the Commission issued the Communication *Paving the Way for a New Neighbourhood Instrument*.¹⁰ The document assesses possibilities of creating a new Neighbourhood Instrument. Taking into account the short-term constraints in the coordination between existing financial instruments – INTERREG, PHARE, TACIS, CARDS and MEDA – the Communication recommends that a two-step approach should be adopted. An initial phase for 2004-2006 was aimed at improving coordination between the various financing instruments within the legislative and financial framework. In a second phase for the period after 2006, the Commission proposed a new Neighbourhood Instrument addressing the "common challenges" identified in the "Wider Europe" Communication.

The Brussels European Council from October 2003 welcomed the Communication on the new Neighbourhood Instrument and urged the Council and the Commission to further develop this initiative. On this basis, the Commission has made a detailed analysis of the elements which would be included within the renamed European Neighbourhood and Partnership Instrument (ENPI). Likewise, it was decided that the ENPI will encourage economic integration and political cooperation between the EU and its neighbours, promote sustainable development and poverty reduction, address security and stability challenges posed by geographical proximity to the EU, and will support the implementation of the ENP Action Plans.

⁹ Del Sarto, R. A. and Schumacher, T. (2005), 'From EMP to ENP: What's at Stake with the European Neighbourhood Policy towards the Southern Mediterranean?', *European Foreign Affairs Review*, 10, pp. 17-38;

¹⁰ European Commission (2003), *Paving the way for a New Neighbourhood Instrument*, http://ec.europa.eu/comm/world/enp/pdf/com03_393_en.pdf;

The EU has approved 11,181 million euros available resources to the ENPI for the 2007-2013 financial perspective. Thus, the total expenditure for the ENPI would be just 15 percent of spending on external action, while the external action budget itself accounts for less than 10 percent of the EU overall budget.

2.4 ENP Strategy Paper

In May 2004 the European Commission issued the Communication *European Neighbourhood Policy Strategy Paper*.¹¹ The document was designed to map out the next steps in carrying forward the European Neighbourhood Policy and defined a set of priorities whose fulfilment would bring partner countries closer to the EU. The ENP Strategy Paper refers to the ENPI and contains recommendations concerning the inclusion of the Southern Caucasian countries Armenia, Azerbaijan and Georgia in the ENP.

The Brussels European Council from June 2004 welcomed the *ENP Strategy Paper* and accepted the inclusion of the Southern Caucasus in the ENP.

2.5 ENP Action Plans

In December 2004 the European Commission has launched the first seven Action Plans under the ENP with Palestinian Authority, Jordan, Israel, Morocco, Moldova, Tunisia and Ukraine. The documents were adopted in 2005. The next Action Plans were concluded with Armenia, Azerbaijan and Georgia in 2006 and with Egypt and Lebanon in 2007.¹²

These Action Plans have been individually negotiated and jointly agreed with the above countries. Therefore, they are differentiated and have been “tailor made”, reflecting the state of relations with partner countries, their needs and capacities, as well as common interests. Despite the differences in the precise agendas for each neighbouring state, they are drawn on a common set of principles and have a similar structure, which seems to be derived from the experience of the pre-accession negotiation process. M. Emerson from CEPS observed that, before the appointment of the Barroso Commission, the “work [on Action Plans] was indeed done by the Commission’s Enlargement department.”¹³ Therefore, the initial link to the enlargement staff in the Commission had an evident impact on the content and method of the ENP, even though it was clearly stated that the ENP does not imply a membership prospect.

The Action Plans are cross-pillar, setting out comprehensive sets of priorities in political, economic and security areas of cooperation. They refer to the EU relations with neighbouring countries, covering a number of key areas of cooperation: political dialogue and reforms; trade and measures

¹¹ European Commission (2004), *European Neighbourhood Policy Strategy Paper*, http://ec.europa.eu/comm/world/enp/pdf/strategy/strategy_paper_en.pdf. The name of the initiative aimed towards the EU neighbours has been changed as many times as the list of neighbours included in it: from „wider Europe initiative” to „new neighbourhood initiative/policy” and finally to „European Neighbourhood Policy”;

¹² In the light of progress made in implementing the AA, Algeria could request full participation in the ENP and commence negotiations for an Action Plan. Concluding ENP Action Plans with Belarus and Syria depends upon their will and democratic developments in these countries. In the case of Libya, joining the Barcelona Process would open up to it the opportunity to work more closely with the EU under the ENP. In 1999 Libya was invited to join the Barcelona Process. In 2004 it indicated its intention to join, though no formal request has been made. Russia is „half in and half out” the ENP, preferring to develop with the EU on a more „equal” basis four common spaces: economic; freedom, security and justice; external security; and research and education.

¹³ Emerson, M. (2004), ‘European Neighbourhood Policy: Strategy or Placebo?’, *CEPS Working Document*, nr. 215, http://shop.ceps.be/BookDetail.php?item_id=1176. After the appointment of the Barroso Commission, the ENP was transferred to the management of the External Relations DG.

preparing partners for gradually obtaining access to the EU Internal Market; justice and interior affairs; energy, transport and information society, environment, research and innovation; social policy and people-to-people contacts.

The Action Plans do not substitute the existing Association Agreements (AA) or the Partnership and Cooperation Agreements (PCA) concluded with the neighbouring countries, but they supplement and are designed on existing arrangements. Moreover, the full implementation and exploitation of the provisions of AAs and PCAs remain a necessary condition for further developments in EU relations with neighbouring countries.

The progress in implementing the Action Plans is monitored by the bodies established through AAs and PCAs. Likewise, the Commission is periodically reporting on the accomplished progress. On the basis of this evolution, the Action Plans stipulate the possibility of developing bilateral relations, including at the level of a new contractual relationship.

2.6 Strengthening the ENP

The European Commission released on December 4, 2006 the Communication on *Strengthening the ENP* and the Communication on the *General Approach to Enable ENP Partner to Participate in Community Agencies and Community Programmes*. The first Communication was accompanied by a *General Assessment* (of the EU relations with the first seven countries which concluded Action Plans with the Union); *Report on sectoral progress* and progress reports on ENP partner countries, including the *Progress Report on Moldova*.

The Communication on *Strengthening the ENP* underlined that the ENP remains distinct from the EU enlargement process, outlined main problems and opportunities within the ENP and raised proposals to strengthen the ENP and substantially improve the impact of this policy. The key premise of the Communication was that the ENP is indispensable, it has confirmed its great potential and it shall provide more stimulants including funds to its neighbours for a more sustainable promotion of reform processes in the EU neighbourhood. It is worth to note that experts described the offers made by the EU to its neighbours after releasing the ENP as insufficient to encourage consistent reforms in the EU neighbourhood.

The second Communication by the Commission has recommended ways of participation of ENP partner countries in EU agencies and programmes. Both communications have generally recommended the EU to supplement the offer it had earlier made to its neighbours, in order to remedy the gap between “Europeanisation” conditions and stimulant provided instead of this “Europeanisation”.

2.7 A Strong ENP

On December 5, 2007, the European Commission released the Communication *A Strong European Neighbourhood Policy*.¹⁴ The document reiterated that the premise of the ENP is that the EU has a vital interest in seeing greater economic development, stability and better governance in its neighbourhood. The Communication stressed the differentiation principle on which the ENP is based. This way, the ENP remains a partnership for reform that offers “more for more”.

¹⁴ European Commission (2007), *Communication from the Commission A Strong European Neighbourhood Policy*, Brussels, 05/12/2007, COM(2007) 774 final, http://ec.europa.eu/world/enp/pdf/com07_774_en.pdf;

It noted main progresses made within the ENP since the last Communications from December 4, 2006. For example, allocations have been made under the Governance Facility; the Neighbourhood Investment Facility is being established; a regional dimension for the East, the “Black Sea Synergy” has been launched; progress has been made towards opening up EC programmes and agencies to ENP partners. However, the Commission noted that a great deal remains to be done and detailed actions the EU should implement in 2008 to accomplish the previous ENP strengthening proposals. The Communication stressed that the focus in 2008 must be on *implementation* of existing commitments.

CHAPTER II – MOLDOVA IN THE ENP CONTEXT. EU-MOLDOVA ACTION PLAN

1. ENP-related perceptions and optimism

Moldova has received the EU initiative targeted at its neighbours with a mixed sentiment. On one hand, Moldova welcomed the EU intention to develop its relations with neighbouring countries, while on the other hand it was disappointed, as the new EU Neighbourhood Policy did not consider a European perspective for Moldova. The inclusion of Moldova in the same group with countries without a European vocation was another important reason of this reticence.

However, the EU initiative on its neighbourhood has brought new optimism to Moldova regarding a future European destiny. Although the ENP does not provide an EU accession perspective, Moldovan authorities received this initiative as a supplementary way of cooperation with the EU and “a bridge to a new stage – association and integration into the EU.”¹⁵

2. EUMAP – overview

The European Commission released on December 9, 2004 the EU-Moldova Action Plan (EUMAP) together with another six similar documents for Palestinian Authority, Jordan, Israel, Morocco, Tunisia and Ukraine. The document was signed on February 22, 2005, at the 7th Meeting of the EU-Moldova Cooperation Council in Brussels by Jean Asselborn, deputy prime minister and minister of foreign affairs and immigration of Luxembourg, on behalf of the EU Council and Moldovan Premier Vasile Tarlev.

Although negotiations on the EU-Moldova Action Plan were completed in June 2004, the Action Plan for Moldova was signed nearly one year later than promised, as the EU wanted to conclude similar documents with a group of states at the same time. This contradicts the differentiation principle that the EU has promised to follow within the ENP. Another problem that negotiations on the Action Plan have revealed was the reciprocal lack of knowledge of EU regarding evolution of policies in Moldova and of the latter concerning EU policies and standards. For example, the EUMAP has formulated tasks which Moldova had fulfilled before the completion of negotiations on the Action Plan in June 2004.¹⁶ The EU had to rely much on information provided by Moldovan Government during negotiations, while the latter had to wait for the EU feed-back regarding its standards and requirements. This could be another explanation for the temporisation of the negotiation process.

The approach of the document is based on partnership, shared responsibility and differentiation, and it aims to contribute to further development of bilateral relations between the EU and Moldova.¹⁷ By signing the three-year EUMAP, the EU invited Moldova to enter into intensified political, security, economic and cultural relations with the EU, enhanced cross border co-operation and shared responsibility in conflict prevention and conflict resolution.

¹⁵ Gheorghiu, V. (2005), *Moldova on the way to the European Union: Distance covered and next steps to be done*, <http://www.ipp.md/public/biblioteca/83/en/MoldovaWayEU.pdf>;

¹⁶ EUMAP formulated the necessity (Objective 4) of ratifying the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, which was earlier done under the Law # 15-XV from February 6, 2004 (*Monitorul Oficial*, issue 39-41/216 from 05.03.2004);

¹⁷ European Commission (2004), *EU-Moldova Action Plan*, http://ec.europa.eu/comm/world/enp/pdf/action_plans/moldova_enp_ap_final_en.pdf;

The Action Plan recognises Moldova's European aspirations, but notes that the PCA remains a valid basis for EU-Moldova cooperation in the near future.¹⁸ This way, the EUMAP supplements the existing PCA, rather than substitutes it. Therefore, the Action Plan is a political document, not a legal act like the PCA.

The Action Plan establishes a comprehensive set of priorities in the PCA-covered areas. Seven out of ten priorities refer to the political dimension of the EU-Moldova cooperation process.

The EUMAP has 46 pages, it formulates 80 objectives and 294 actions/measures to be implemented in seven key areas: political dialogue and reform; co-operation for the settlement of the Transnistrian conflict; economic and social reform and development; trade-related issues, market and regulatory reform; co-operation in Justice and Home Affairs; transport, energy, telecommunications, environment, and research, development and innovation; and people-to-people contacts.

Majority of these objectives and actions/measures rest with Moldova's responsibility, 14 clearly refer to the EU, and 40 concern equally the EU and Moldova.¹⁹ For this reason, certain observers consider that in spite of the used rhetoric, the EUMAP "is not a bilateral document," as there are few obligations for the EU.²⁰ Indeed, the EUMAP like other similar documents signed within the ENP rather reflects an important dose of EU self-interest and strong "centre-periphery" characteristics.²¹ The Action Plan for Israel is an exception because it is less a list of actions that Israel must implement and rather a list of tasks that this country must implement jointly with the EU.

Beyond all, it is hard to establish what side shall implement certain objectives and actions/measures stipulated by the EUMAP.²² Sometimes, even when this is clear, due to the lack of precise benchmarks in evaluating the implementation of the document, it is not always clear how progress is judged, being thus very difficult to demonstrate that some actions are implemented or not. Or the quality of implementation comes to the interpretation. Likewise, there are no precise quantitative requirements or terms when certain objectives and actions shall be implemented, though it is clear that the EUMAP must be implemented within three years.

All these facts lead to the idea that the EUMAP is far from a well-done document. A reason in this respect is the fact that the *ENP Strategy Paper* and the *ENP Country Report – Moldova*²³ have been published when the Plan for Moldova was being finalised.²⁴

¹⁸ PCA was signed on November 28, 1994 and entered into force on July 1, 1998 for a 10-year initial term;

¹⁹ Buscaneanu, S. (2006), *How far is the European Neighbourhood Policy a substantial offer for Moldova?*, Annex 5, <http://www.e-democracy.md/files/enp-moldova.pdf>;

²⁰ Gheorghiu, V. (2005), *EU-Moldova Action Plan: Negotiations and Implementation*, <http://www.ipp.md/public/biblioteca/92/en/Yerevan272.doc>;

²¹ Smith, K. E. (2005), 'The outsiders: The European neighbourhood policy', *International Affaires*, 81(4), pp. 757-773; Stetter, S. (2005), 'Theorising the European Neighbourhood Policy: Debordering and Rebordering in the Mediterranean', *EUI Working Papers*, RSCAS nr. 34, http://www.iue.it/RSCAS/WP-Texts/05_34.pdf;

²² See, for example, the objectives 68, 72-73;

²³ European Commission (2004), *European Neighbourhood Policy Country Report – Moldova*, http://ec.europa.eu/world/enp/pdf/country/moldova_enp_country_report_2004_en.pdf;

²⁴ For more details, see Gheorghiu, V. (2005), *EU-Moldova Action Plan: Negotiations and Implementation*, <http://www.ipp.md/public/biblioteca/92/en/Yerevan272.doc>;

3. Value added of EUMAP

3.1 Political dimension

Comparing the EUMAP and the PAC on political dimension, one may observe that these documents share a similar rationale and do not differ radically in their concrete approaches and instruments. However, there are a series of clear differences that shall be mentioned.

The EUMAP envisages a more complex, specific and operational cooperation process between the Parties. The document considers new areas of dialogue such as co-operation for the settlement of the Transnistrian conflict, in migration issues, border management, fighting against organised crime and in police and judicial matters. The introduction of a distinct section on the Transnistrian settlement process in the EUMAP was important for Moldova. By signing the EUMAP, the EU has committed to support this process and to consider possibilities of strengthening its engagement.

Also, the EUMAP has upgraded the EU-Moldova dialogue in areas such as prevention of, and fighting against, the trafficking in human beings; eradication of ill-treatment and torture; combating terrorism; non-proliferation of weapons of mass destruction and illegal arms export. The establishment of the new areas of co-operation and updating the former scope of the dialogue between the Parties aimed to meet new imperatives and respond to internal, regional and global threats.

Paradoxically, though the EU is exclusively in charge with some actions only, the EU engagement through the EUMAP is generally more visible and participative. The extension of the EU's borders, its increasing interests in the stability and security of its neighbourhood and the evolution of the EU's own policy competences must be seen as the main reasons for such an engagement.

A comparative analysis of the PCA and Association Agreements (AAs) has revealed that the PCA was inspired with the AA.²⁵ Similitude of the EUMAP with AA is clearer, though the Action Plan has nothing in common with the EU enlargement. Also, the EUMAP is much similar with the European Strategy of Moldova, which was being drafted before negotiations on EUMAP and clearly recalls European integration strategies of Central and East European countries that strictly respected the AAs.²⁶

The comparative analysis found out that the PCA goals enfold the Copenhagen Criteria. In this respect, the correlation between the EUMAP and these criteria is clearer as well, though they are not even cited. Even more, by "decoding" the EUMAP, one may notice that the Plan grants a special importance to political aspects of cooperation between the Parties, aspects that may be easily circumscribed to the Copenhagen political criterion. Hence, the political progress is the

²⁵ Chirila, V. (2001), *The relation between the Republic of Moldova and the European Union*, http://www.ipp.md/files/Publicatii/2001/integrarea_europeana/Chirila-eng.doc;

²⁶ MFAEI and IPP (2006), *European Strategy of the Republic Moldova*, <http://www.ipp.md/biblioteca1.php?l=en&id=85>. The structure of the "Political dialogue and reform" section of the Action Plan is almost identical with the structure of the "Building the rule of law and strengthening democracy" chapter of the European Strategy of the Republic of Moldova. Both documents refer to the stability of democratic institutions; independence of the judiciary; fight against corruption; respect of human rights, including the rights of persons belonging to national minorities; freedom of expression; civil society sector; and respect for trade unions' rights. The same could be said about the structure of the "Co-operation in Justice and Home Affairs" section of the Plan and the "Justice and Home Affairs" chapter of the European Strategy, both referring to migration issues; border management; fight against organized crime; etc.

precondition for further cooperation and developments on other items of the dialogue between the Parties. In this context, it is worth to remark that seven out of ten priorities mentioned in the EUMAP envisage the political aspects of cooperation. Therefore, the Action Plan gives a greater importance to the political transformations in Moldova, than the PCA does.

Unlike the PCA, the EUMAP covers the human rights more. Besides general matters, the Plan envisages the rights of the child and equal chances for women and men.

But the EUMAP does not bring anything new in institutional terms. The same organisations established by the PCA – the Cooperation Council, Cooperation Committee and Parliamentary Cooperation Committee – supervise the implementation of the Action Plan.

As regard obligations of the Parties to implement these documents, the PCA formulation is clearer and it addresses both Parties, while the EUMAP formulation is evasive and it rather addresses Moldova. Another difference is that the implementation of the Action Plan is evaluated through regular monitoring reports by the European Commission, while in the case of the PCA the Commission had no such obligation. One consequence of the lack of such obligation was that, although the PCA stipulates that it can be revised, this never has been done. As for the Action Plan, it was expected that the document would be adapted and updated on the basis of first progress report on Moldova from December 2006, as the EUMAP itself stipulates. But the EUMAP was not updated for unknown reasons. Perhaps the Commission wanted to avoid the moving target problem, as a substantial modification of the Plan would have obstructed its implementation in the second half of the EUMAP term.

The EUMAP is based on different spatial reasons. If the EU approach via the PCAs envisaged a partnership with CIS member states, then the ENP takes Moldova to another geopolitical perspective based on European neighbourhood and proximity concepts. Of course, being treated the same way with countries in the European neighbourhood which do not have a clear European vocation was not what the Moldovan diplomacy was expected, but did Moldova deserve more? Moreover, the EU “enlargement fatigue” and difficult internal situation after France and Netherlands turned down the European Constitution in 2005 did not let the EU promise more.

As regards regional cooperation, while the EU approach via PACs stresses the importance for CIS member states to “cooperate among them /.../ in the spirit of good neighbourhood relations,” the EUMAP indicates the necessity for Moldova to cooperate within the PSESE, a clear European arrangement which is complementary to the implementation of this Plan. Even more, one of the few responsibilities assumed by the EU through the Action Plan is to support the participation of Moldova in the SEECP, which the Moldovan diplomacy regards as a “tunnel” capable to ensure Moldova’s junction with Western Balkan states on their route to the EU.

Apart from these, the EU-Moldova Action Plan itself mentions explicitly new partnership perspectives opened up by the ENP. Among the most important, without repeating the opportunities already discussed, it could be noted: the perspective of moving beyond the PCA to a significant degree of integration and the possibility for Moldova to participate progressively in key aspects of EU policies and programmes; an upgrade in the intensity of political co-operation; an increased financial support through the ENPI for the implementation of the Action Plan and for cross-border and trans-national co-operation between Moldova and the EU; support including technical assistance and twinning to meet EU norms and standards, and targeted advice and support for legislative approximation through a mechanism such as TAIEX; establishing a constructive dialogue on possibilities of visa facilitation; and opening a Commission Delegation in Moldova.

European high-ranking officials have stressed the majority of new opportunities. Mrs. Benita Ferrero-Waldner, Commissioner for External Relations and European Neighbourhood Policy, was confident that the ENP is “a substantial offer” for partner countries. She noted that the EU provides a wider political integration on the political dimension of the ENP, that means a more frequent political dialogue at a higher level; fortified assistance for the further consolidation of institutions guaranteeing democracy and the rule of law; and a tighter cooperation in promoting common foreign policy priorities such as strengthening efficiency of multilateral institutions and struggling common security threats.²⁷

Of course, a simple listing of the new cooperation opportunities opened up by the EUMAP does not necessarily mean that all of them will be sufficiently explored. However, some of the results achieved already in the implementation process of the Plan seem encouraging.

The subtle message which the ENP and EUMAP are bringing for Moldova could be read briefly as follows: the EU acknowledges Moldova’s European aspirations (acknowledgment not present in the case of the PCA); Brussels is “tired and busy” for the time being and, therefore, it will stay apart of new enlargements, the least in the near future; however, some “doors” or rather “windows” stay open; implemented in a rigorous manner the Action Plan and then the opportunity of a new contractual relationship will be considered. Hence, the finality of the EUMAP and PCA is alike, as it does not envisage a clear European perspective for Moldova. Therefore, some could say that the EUMAP is a “Potemkin village”, as its finality does not bring any essential change.

However, the ENP and EUMAP have brought a new dynamics in the Moldova-EU relations; they extended their cooperation opportunities; specified and detailed the cooperation process between the Parties; updated the areas of dialogue; contributed to a more operational, visible and participative EU’s engagement in Moldova; added more elements of conditionality, especially with regard to political dialogue and political reforms, emphasising thus the necessity of democratic transformations as a prerequisite for further developments in other cooperation areas; and brought Moldova in a different spatial perspective based on the European neighbourhood and proximity concepts. Not less important is that the ENP and EUMAP have also determined Moldova to be more receptive, responsive and responsible with regard to European values and standards in a broad spectrum of areas.

3.2 Economic and social dimension

In general, the ENP is a higher level in commercial-economic relations of the EU with Moldova, while the EUMAP is an operational instrument to implement the basic provisions of the ENP.

The PCA has not been materialised in intensifying bilateral commercial relations. Moldova’s accession to the World Trade Organisation (WTO) in 2001 was a key progress after the PCA was signed. Following the accession to the WTO, which the PCA indicates as a premise for the liberalisation of the trade between Moldova and EU, the liberalisation was not achieved, and this is a proof of the failure of PCA to stimulate the development of EU-Moldova commercial relations.

See essential differences between the PCA and EUMAP in Table 1:

²⁷ Ferrero-Waldner, B. (2004), *Press Conference to launch first seven Action Plans under the European Neighbourhood Policy*, Speech/04/529, http://www.europa.eu.int/comm/external_relations/news/ferrero/2004/sp04_529.htm; (2005) *Europe’s Neighbours – Towards Closer Integration*, Speech/05/253, http://www.europa.eu.int/comm/external_relations/news/ferrero/2005/sp05_253.htm;

Table 1. Concept and key economic and social objectives of PCA, ENP and EUMAP

PCA	→ ENP ²⁸	→ EUMAP
	Concept	
It builds the legal and institutional framework on economic and commercial cooperation between Moldova and EU.	It consolidates economic-commercial cooperation based on PCA, being an alternative policy to the enlargement policy addressed to states, which do not have EU accession perspectives on a short and medium term.	It is an operational instrument of the ENP, a programme of internal economic and social reforms; it stipulates new prospects for the development of economic-commercial partnership relations between EU and Moldova.
Key economic and social objectives		
1. Trade and investment promotion; 2. Cooperation in legal, economic, social and financial areas; 3. Support for efforts for economic development and finalisation of transition to market economy.	1. Deepening preferential commercial relations, opening of markets and promotion of investments; 2. Building a single and clear framework of commercial-economic relations for the perspective of a partial economic integration.	1. Facilitating the elaboration (on medium and long term) and implementing policies on promotion of economic growth and social cohesion, poverty reduction; 2. Resumption of cooperation with International Financial Institutions; 3. Improving investment climate by ameliorating the business climate and anti-corruption fight.

Source: Elaborated by authors.

Unlike the PCA, the EUMAP ensured a framework needed for a faster development of commercial relations between Moldova and EU. On January 1, 2006 the Generalised System of Preferences + (GSP+) substituted the precedent ordinary GSP. Also, a real progress was made in negotiating the EU Autonomous Trade Preferences for Moldova. From this commercial perspective, the EU offer reflected in EUMAP was pretty serious, given the fact that it will be able to implement PCA provisions, encouraging and supporting the further integration of Moldova into European economic and social structures. The 3-year initial term for the implementation of EUMAP (compared with 5 years for other countries) signalled big expectations of the EU with regard to Moldova.

Unlike the PCA, the EUMAP is not a legal document and it rather establishes references of the policy implemented in economic and social areas inclusively. In general, the EUMAP is like the spirit and goals of the Economic Growth and Poverty Reduction Strategy Paper of Moldova approved in 2004.

²⁸ ENP-covered countries received 8.5 billion euros for 2000-2006, 1.4 billion euros for 2007, and they will get approximately 11 billion euros for 2007-2013. At the same time, allocations for different countries depend on their capacity to absorb and progress in elaborating and implementing reforms.

CHAPTER III – IMPLEMENTATION OF EUMAP: TWO STEPS FORWARD AND ONE STEP BACK

1. Political dialogue and democratic institutions

1.1 Political dialogue

- **Progress**

The Moldova-EU political dialogue has deepened during the implementation of EUMAP and developed in multiple areas. At the beginning of that period the EU has contributed to the enhancement of the intensity and quality of its dialogue with Moldova. In the first year of implementation of EUMAP, in March 2005, an EU Special Representative for Moldova was appointed²⁹; the European Commission Delegation to Moldova opened in October 2005; the EU has started participating in the Transnistria settlement negotiations (in the “Five-Plus-Two” format); the EU Border Assistance Mission (EUBAM) to Moldova and Ukraine was established in December 2005.

On the other side, Moldova has started gradually manifesting more initiative with regard to its relations with the EU in the ENP context. Although with some derogations, Moldova subscribed to EU declarations on CFSP. Despite many EU statements on CFSP envisaged matters of minimal interest for Moldova’s foreign policy agenda, the signing of these declarations by Moldova has enhanced its credibility.³⁰

The regime of reciprocal trips by citizens of the two Parties is another important area in which progress was made. First, Moldova annulled on January 1, 2007 the entry visa regime for EU citizens. Later, the EU opened the Common Visa Application Centre (CVAC) in the Hungarian Embassy in Chisinau on April 25, 2007. This is the first centre of this kind opened by EU to enable Moldovan citizens to apply for visas for several European countries which do not have diplomatic representations in Moldova. Austria, Slovenia and Latvia were the first countries to join the CVAC in the Hungarian Embassy. Denmark and Estonia have joined the CVAC later. The EU invited Moldova to negotiate visa facilitation and readmission agreements. These documents were signed in Brussels on October 10, 2007 and entered into force on January 1, 2008, building grounds for a further development of cooperation in the area.

By the end of the initial deadline for the implementation of EUMAP, the Chisinau diplomacy has increased its efforts aimed to enlarge the circle of Moldova’s friends abroad and persuade EU member states which are less responsive towards Moldova’s wishes to give green light to a new-quality relationship after February 2008. This effort of the Chisinau diplomacy included a series of meetings at the level of EU institutions and member states, with Moldova introducing its point of view regarding future relations with EU. Moldova hinted at the beginning that it is interested to conclude an Association Agreement with the EU, but starting August 2007, its standpoint regarding further relations with EU was formulated in terms of its progressive anchoring on the EU four movement freedoms area.

²⁹ EU Council (2005), *Appointment of an EU Special Representative for Moldova*, 7023/05, Presse 53, http://eurojournal.org/files/EUSR_mandate.pdf;

³⁰ At the same time, Moldova manifested a selective attitude towards EU declarations on CFSP and avoided to subscribe to some statements of principle;

With the view to inform the public better about EU and open up new possibilities for civil society to participate in the European integration process more actively, the Government approved in December 2007 the Communication Strategy on European Integration of Moldova and the 2008 Action Plan on implementation of this document.³¹

- **Shortcomings and problems**

Despite the established targets,³² Moldova has failed to persuade by the EUMAP deadline that it is ready to succeed to another kind of contractual relationship with EU.

Besides endemic problems related to human rights, freedom of the media, anti-corruption fight, independence of the judiciary and business climate, a serious gap of the political dialogue between Moldova and EU has encouraged the reticence of the latter towards Chisinau's demand. The gap is linked to the non-transparency of the Transnistrian file in the context of talks on the controversial "package of proposals", a lack accompanied by the reduction of Moldova's credibility in front of the EU, as well as to a dose of inability to communicate rapidly and comprehensively with Brussels concerning actions and plans on the Transnistrian problem.

The slowed down elaboration of the foreign policy concept of Moldova completes these shortcomings. Under a presidential decree, the document should be elaborated by March 1, 2006. The effective foreign policy concept approved in 1995 is out-of-date.

The generally fruitful political cooperation between Moldova and the EU in February 2005 – January 2008 was also undermined by shortcomings in relations of Chisinau with an EU member state, Romania. Difficulties to get Romanian visas, delay to sign a bilateral local border traffic agreement and enforce people movement flexibilities allowed by the Schengen *acquis* are direct consequences of these shortcomings. Moldovan citizens are those suffer the most after these consequences.

- **Priorities**

Some concrete directions on which the political dialogue with the EU could focus in 2008 would be the following:

- Continued requests to persuade EU member countries without diplomatic representations in Moldova to join the CVAC;
- Conduct of a new feasibility study regarding possibility to sign a free trade agreement between EU and Moldova;³³
- Consideration of the opportunity for Moldova to participate in the EU Competitiveness and Innovation Programme, as well as of possibilities to cooperate with the European Patent Office;
- Signing of local border traffic agreements (with Romania), readmission agreements with origin/ transit countries of illegal migrants who cross Moldova to get to the EU and bilateral agreements providing people movement flexibilities accepted by the Schengen *acquis*;

³¹ GD # 1524 from 29.12.07 approving the Communication Strategy on European Integration of the Republic of Moldova;

³² Premier Vasile Tarlev indicated at the January 19, 2007 NCEI sitting, as a basic objective in Moldova's relations with the EU in 2007, that Moldova must get the EU consent to sign an Association Agreement. For more details, see ADEPT (2007), *Governing and Democracy in Moldova*, year V, issue 88, 1-31 January, <http://www.e-democracy.md/e-journal/20070131/#4>;

³³ In 2008 such studies will be worked out for Georgia and Armenia;

- Request to organise in Chisinau the 2009 annual conference within the ENP³⁴;
- Completing EID personnel in MFAEI and diplomatic corp to the European Community;
- Objective, plenary, comprehensive and rapid notification of the EU with regard to key processes in Moldova's relations with the Union. Ensuring more opening towards the EU in terms of notification of the Union with regard to security and foreign policy matters.

1.2 Democratic institutions

While Moldova's efforts in political dialogue have increased by the EUMAP deadline, Chisinau has made greatest progresses in the area of democratic institutions with an approximation dose in the period between March 2005 and March 2007. The reformation process in this area has slowed down after March 2007. Democratic developments in certain segments marked the time, and a certain regress was noticed in other areas such as freedom of the media. The lack of progress in the media freedom area was confirmed by Freedom House³⁵ and Reporters Without Borders (RWB)³⁶. According to Freedom House, the „democracy score” of Moldova has generally improved since 2005 (5.07) until 2006 (4.96), but it was constant in 2007 (4.96), compared with the precedent year.³⁷ Unlike Freedom House, the PACE said in its October 2007 monitoring report that since the adoption of the last monitoring report in 2005, “Moldova has advanced significantly on the path of democratic reforms.”³⁸

The intermittence occurred in intensity of the reformation process was linked to the start of the 2007 electoral campaign for the election of local public authorities. Regretfully, reforms in the area of democratic institutions were unsatisfactorily promoted after the 2007 local elections, too. The treatment faced by opposition parties during the electoral campaign, results of local elections and eroding of the informal “political partnership” between the Party of Communists of the Republic of Moldova (PCRM), Christian Democratic People's Party (CDPP) and Democratic Party of Moldova (DPM) were among factors that influenced the reform process.

Besides the electoral campaign, direct and non-transparent negotiations between Chisinau and Moscow regarding the Transnistrian conflict were another factor to affect the building of the “political partnership”. Some media hypotheses regarding the “package of proposals” on the Transnistrian conflict raised by the Moldovan side, indicated alleged evolutions that undermined the CDPP interests, so that this party has estranged from the PCRM.

³⁴ The first conference of this kind took place in Brussels on September 3, 2007. The next conference will take place in Georgia in 2008;

³⁵ Freedom House (2007), *Nations in Transit 2007. Democratisation from Central Europe to Eurasia*, New York, Washington D.C., Budapest, Freedom House;

³⁶ Reporters sans Frontières (2007), *Worldwide Press Freedom Index 2007*, Press Release, 16 October, http://www.rsf.org/IMG/pdf/index_2007_en.pdf;

³⁷ The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score (DS) is an average of ratings for Electoral Process (4.00 in 2005, 3.75 in 2006 and 3.75 in 2007), Civil Society (4.00 in 2005, 4.00 in 2006 and 3.75 in 2007), Independent Media (5.00 in 2005, 5.00 in 2006 and 5.25 in 2007), National Democratic Governance (5.75 in 2005, 5.75 in 2006 and 5.75 in 2007), Local Democratic Governance (5.75 in 2005, 5.75 in 2006 and 5.75 in 2007), Judicial Framework and Independence (4.75 in 2005, 4.50 in 2006 and 4.50 in 2007) and Corruption (6.25 in 2005, 6.00 in 2006 and 6.00 in 2007). All new EU members, Western Balkan countries, except for Kosovo, CIS members Ukraine and Georgia were rated better than Moldova in 2007. Other CIS member countries are behind Moldova regarding the DS;

³⁸ PACE (2007), *Report on the honouring of obligations and commitments by Moldova*, Doc. 11374 14 September, <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc07/EDOC11374.htm>;

The competition for distributing leading offices after the June 2007 local elections has deepened the contradictions between political parties and affected the condition of democratic institutions in Moldova.

1.2.1 Human rights

- **Progress**

A series of progresses have been made in the human rights area from February 2005 to January 2008. They include among others the approval of the law on modification of Article 24 of the Moldovan Constitution, which abolished the death penalty in all circumstances; the ratification of Protocols 13 and 14 to the European Convention on Human Rights and Optional Protocol to the International Covenant on Civil and Political Rights; the approval of the regulation on human rights watchdog; the approval of the 2007-2010 action plan on support of the Roma in Moldova; the law on protection of personal data. Also, the UN Convention on the Rights of Persons with Disabilities was signed. It obliges Moldova to respect the rights of disabled people and remedy obstacles to their participation in social life.³⁹ With regard to this social group, the Government has approved the national programme on rehabilitation and social integration of disabled people for 2007-2009.

Under the law on modification of the Criminal Code, the Code was completed with a new article (Article 309) titled “Torture”, which establishes penalties for torture. Detention conditions in prisons have improved to a certain extent (for example, the Rusca-based prison for women) in the first years of implementation of EUMAP. The Complaint Committee created to consider appeals by inmates became functional in February 2006. Following the enforcement of the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment on July 24, 2006, the Parliament has empowered the CHRM to prevent the torture at national level.⁴⁰

As regards the rights of workers, the following have been adopted: the law on ratification of the International Labour Organisation’s Labour Management Convention no. 150; the law on modification of the law on remuneration system in budgetary sector. The document stipulates a three-round salary rise.⁴¹

The law on modification and completion of the law on rehabilitation of victims of political repressions was adopted in the period between February 2005 and January 2008. It sets up a mechanism of restitution of estate confiscated from rehabilitated victims of repressions and granting of fair compensations for goods that cannot be returned. In connection with this law, a regulation on restitution of the value of estate by paying compensations to victims of political repressions and payment of a compensation for the death after repressions was approved in February 2007.

As regards the equality of chances, the following documents have been endorsed: the law on Moldova’s accession to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the law on equal chances of women and men. The second law introduced normative, administrative and organisational regulations to ensure an equal promotion of

³⁹ EU has also signed the Convention, and thus it became part of the community law;

⁴⁰ Amnesty International-Moldova, CReDO, Promo-Lex, OSCE Mission to Moldova, etc. have criticised the decision by authorities to empower the CHRM only to prevent the torture at national level, insisting on the necessity of a more representative torture supervision mechanism. Authorities did not give green light to recommendations by these organisations;

⁴¹ Opposition lawmakers have described these rises as populist, saying that aim to influence voters prior to local elections, criticised the proposed implementation mechanisms and the lack of clear criteria to argue the remuneration of different categories of workers.

women and men and to prevent discrimination. The governmental commission for the equality between women and men was created later and then the regulation of this commission and the national plan on promotion of equal human genders in society for 2006-2009. Also, the law on prevention and combat of domestic violence was adopted and the Interior Ministry approved an action plan on fight against this scourge.

The number of female mayors has increased up to 18 percent after the June 2007 general local elections, compared with 16 percent after the 2003 local elections.

Moderate progresses have been made in the area of protection of the child's rights. The following may be mentioned among them: the law on ratification of the Optional Protocol to the Convention on the child's right on sale of children, infantile prostitution and pornography; the rise of the single birth indemnity from 800 lei up to 1,000 lei starting January 1, 2007; the rise of allocations for a number of categories of children in need; the reduction of the maximum jail term for minors from 15 down to 12.5 years, and the rise of the number of offences for which education constraint measures may be applied. Also, the national strategy and action plan on reformation of the residential child care system for 2007-2012 have been approved. These documents stipulate the reduction of the number of children in residential institutions by about 50 percent by developing alternative institutions and services. Also, the Government has approved the 2007-2009 national strategy on community actions aimed to help children in need and the minimum quality standards for looking after, growing up and socialising children from residential institutions. The number of family-type facilities for children has increased nearly twofold in 2007 thanks to the reform of residential child care system, while the number of institutionalised children has declined.

- **Shortcomings and problems**

The most frequent human rights violations certified by CHRM include the ignorance of the law on petitioning, non-execution of judgments, torture and inhuman treatment in activity of the Interior Ministry and other law enforcement bodies, problems in the penitentiary system.

Many organisations, parties, in particular, Amnesty International-Moldova, Helsinki Committee for Human Rights in Moldova, Gender Doc, Hyde Park, Movement of Refugees from Transnistria, Liberal Party and Social Liberal Party, invoked the restriction of the right to organise meetings and manifestations between February 2005 and January 2008.

ECHR decisions vs. Moldova confirmed violations of human rights. ECHR has sentenced Moldova in 110 cases before January 2008.⁴² It passed 59 decisions (56.73 percent)⁴³ vs. Moldova in 2007 only. The main reason why the ECHR sentenced Moldova was the non-execution of judgments. Moldova was condemned most for violation of rights to a fair trial, protection of property, private life, effective appeal, freedom of expression, illegal detention, improper detention conditions, excessive term of proceedings, and torture.

The law on modification and completion of the law concerning rehabilitation of victims of political repressions is not applied efficiently. Some provisions of this law obliging local authorities to pay compensations were described as inefficient and jeopardizing the effective execution of the restitution/ recovery process.

⁴² Overall damages amount to about 1.98 million euros or 32.64 million lei;

⁴³ Damages for 2007 account for about 1.23 million euros or 20.49 million lei;

Situation of inmates does not correspond to international norms and they shall be improved.⁴⁴ Detainees submit thousands of complaints a year, with most of them signalling improper detention conditions, crowded detention facilities and prisons, inadequate quality of food, inappropriate water supply and heating of cells. Another shortcoming is the **lack of a unitary and efficient social adaptation system for former detainees (Chapter 14 of NHRAP⁴⁵; objective (4) of EUMAP)**. According to the Department of Penitentiary Institutions (DPI), only 40 percent of all former inmates get employed and many of them go back to prison.

Temporary detention facilities (TDF) were not transferred from jurisdiction of MIA to MJ (Chapter 7 of NHRAP; objective (4) of EUMAP)⁴⁶. According to the Complaint Committee, there is little torture in prisons but such practices are often registered in detention facilities of police offices. Most appeals are submitted by detainees who disagree with court rulings and detention conditions. The EUMAP implementation process was gravely affected in 2006, as the Prosecutor-General's Office threatened the Bar to bring criminal charges against lawyers who signal torture to international courts and "deteriorate" the image of the country this way. Although the ECHR has sentenced Moldova more than once on torture charges, authorities have not done their best to remedy this problem.

The Labour Inspection has annually assessed thousands of breached regulations on labour protection and rights of employees. Most frequent violations of labour legislation envisaged the improper organisation of workplaces, lack of labour contracts, lower salaries than stipulated by law, overtime programme, salary arrears and unmotivated dismissals. Thus, number of work accidents including fatal has increased compared with 2006. The lack of a law on minimum of existence adjusted to the minimum consumer basket is a related problem faced by employees.

In spite of many progresses related to equality of chances, women are so far underrepresented in public authorities of different levels; they are discriminated in terms of employment and remuneration. Women were seldom encouraged to compete for high-ranking vacancies. Also, the domestic violence including against women continued to be a widespread scourge.⁴⁷

Main violations of child rights include those to a decent living, family and education. In spite of efforts to reduce the number of children from residential institutions, it was big so far (more than 11,000 children).⁴⁸ Low allocations for new-borns and children in need, as well as low attention by authorities towards children whose parents have left for abroad complete this list of shortcomings.

1.2.2 Civil society

- **Progress**

The Concept on cooperation between Parliament of Moldova and civil society was approved on December 29, 2005. It aimed to establish principles of interaction between Parliament and civil society representatives, as well as permanent consultations between the parties. In the virtue of the concept, draft legal acts have been published on the official website of the Parliament for public

⁴⁴ Prosecutor-General's Office (2007), *Press release*, <http://www.procuratura.md/md/news/1211/1/2288>;

⁴⁵ NHRAP stipulated this action for 2004;

⁴⁶ *GD # 113 from 03.02.2007 concerning approval of a priority action plan on implementation of EUMAP in 2007*. This decision stipulated the transfer of DPI from jurisdiction of the Ministry of Interior Affairs to the Ministry of Justice in 2007;

⁴⁷ This is the conclusion of a study by the Forum of Women's Organisations in Moldova (FWOM);

⁴⁸ About 85 percent of children from residential institutions have one or both biological parents alive;

debates. Also, the Parliament cooperated with specialised NGOs to work out draft laws on central public administration reform, amendment of election legislation, decision-making transparency, modification and completion of the law on public associations.

The Government followed the example of the Parliament and proposed for public debates some draft documents on public service and status of public functionary, the communication strategy on European integration of the Republic of Moldova.

Achievements include among others the signing of the memorandum on cooperation between MFAEI and civil organisations in the European integration process and the memorandum on cooperation between Ministry of Social Protection, Family and Child (MSPFC) and network of social NGOs. The memorandum between MFAEI and 23 NGOs, alliances, networks and forums welcomes all public organisations interested to support and assist authorities in fulfilling the European integration goal.

Also, civil society representatives have become members of commissions for the elaboration of national security and foreign policy concepts of Moldova. Ministries have periodically held consultative meetings with participation of NGO representatives.

- **Shortcomings and problems**

Although draft legal acts have been published on the website of the Parliament, documents on ratification of international acts did not contain the texts of the treaties concerned, and communications, notifications, surveys and references to community or internal acts indicating the necessity of elaborating these drafts were unavailable. This also concerned the Government. At the same time, there were cases when the legislature considered drafts in a hurry, without respecting the 15-day term stipulated by the Parliament Regulation and mechanism of implementation of the concept on cooperation with civil society.

As regards the elaboration and promotion of certain legal acts (Broadcasting Code, package of laws on local public administration reform), specialised NGOs noticed that they were not publicly debated and many initiatives by NGOs were not taken into consideration. It means that some public authorities had a formalist or ignorant attitude towards participation of NGOs in formulating and implementing public policies.

Transparency and opening of authorities towards NGOs were insufficient so far. They are even lower after the live broadcasting of plenary sittings of the Parliament was ceased. On the other hand, human and institutional, expertise and assistance capacities of NGOs were limited. Opinions by public organisations concerning areas with satisfactory capacities were often neglected.

1.2.3 Political parties

- **Progress**

Nine parties⁴⁹ have joined politics from February 2005 to January 2008, so that the number of parties has grown by approximately one third. Another two parties have recently announced their

⁴⁹ European Party (EP), Christian Humanist Party of Moldova (CHPM), Party of Spiritual Development United Moldova (PSDUM), Party of Social Democracy of Moldova (PSDM), Conservative Party (CP), National Liberal Party (NLP), Socio-Political Movement for People and Country (SPMPC), European Action Movement (EAM), Liberal Democratic Party of Moldova (LDPM);

existence, though they were not formally registered.⁵⁰ The formation of new parties is a proof that the constitutional right to association into parties was respected in principle.

On March 24, 2005, the 101-member Parliament representing five parties unanimously voted the declaration on political partnership aimed to fulfil European integration objectives.⁵¹ The document was based on the consensus of all parliamentary factions concerning cogent promotion of strategic European integration course. For this purpose, lawmakers pledged to join their efforts in order to implement the EUMAP. It was the second time in two years when a political document on strategic orientation of Moldova towards European integration was voted by consensus.

The June 2007 general local elections were also an occasion to test the potential of political parties at national level. Only five out of over 20 parties have won more than 4 percent of the votes of electors, confirming their potential to successfully participate in the political race for representation in Moldova's Parliament.

The Parliament adopted a new law on political parties on December 21, 2007. Essential provisions of the new law concern restrictions for parties (the minimum number of members was lowered from 5,000 down to 4,000 persons); tasks of political parties; state support; record of parties; tasks and responsibilities, including obligation to hold general assemblies and update the lists; reorganisation, suspension and cessation of activity, including for inactivity; patrimony and funds. The main innovation of the draft is the new provision on funding of parties, including from the state budget (0.2 percent of the state budget per year), starting July 1, 2009, among regulations on formation, registration and activity of political parties.

- **Shortcomings and problems**

The relationship between the ruling party and the opposition was competitive and the race has intensified before the campaign for the 2007 local elections. Starting March 2007, the race between the Party of Communists of the Republic of Moldova (PCRM) and opposition parties degenerated into persecutions and abuses by the ruling party.⁵² Criminal charges have been filed against leaders of opposition parties, including Nicolae Andronic, chairman of the Republican People's Party (RPP); RPP deputy chairman Mihail Formuzal; Victor Morev, chairman of the Socialist Party of Moldova (SPM); Eduard Musuc, chairman of the Social Democratic Party of Moldova (SDPM)⁵³; Gheorghe Sima, chairman of the Patria-Rodina Labour Union (PRLU); Serafim Urechean, chairman of the Our Moldova Alliance (OMA). Many party leaders claimed that charges against them had a "political nature". These claims were grounded, as the prosecution did not confirm the guilt of the culprits. At the same time, the European Action Movement (EAM) accused the Ministry of Justice of having halted its registration, while the SDPM and PRLU have charged the same ministry with delaying the registration of changes operated by their competent bodies.

The new law on political parties is imperfect, being drafted in a hurry without taking into consideration all previous objections and recommendations on regulation of this area. National and

⁵⁰ Patriots of Moldova Movement (PMM) and People's Action Movement (PAM);

⁵¹ *Moldova Suverana*, issue 51 (20688), 29 March 2005;

⁵² Our Moldova Alliance (OMA), Liberal Party (LP), Democratic Party of Moldova (DPM), Christian Democratic People's Party (CDPP), Republican People's Party (RPP), Social Liberal Party (SLP), Party of Socialists "Patria-Rodina" (PSPR).

⁵³ Eduard Musuc, accused of having appropriated very large funds, was acquitted at national level and was awarded victory versus Moldova by ECHR.

international experts have signalled insufficient and imperfect regulations on financing, transparency and responsibility; the lack of a tight correlation with diverse legal acts in effect.

The introduction of a substantial state financing for parties (0.2 percent a year) was not correlated with high transparency norms on areas of public interest such as obligation to report criteria followed to issue lists of candidates.

The restriction on holders of dual citizenship to run public and elective offices is a serious limitation in developing political parties. In these circumstances, it makes no sense for qualified personnel to join political parties, as they will be restricted from running high-ranking offices on behalf of their parties.

1.2.4 Election institution

The following elections were organised from February 2005 to January 2008: parliamentary elections (March 6, 2005); elections for Chisinau Mayor (July 10 [new elections], July 24 [repeated elections], November 27 [new elections] and December 11 [repeated elections] 2005); elections for Gagauz Bashkan (December 3 and 17, 2006), and general local elections (June 3 and 17, 2007).

- **March 6, 2005 parliamentary elections**

The International Election Observation Mission (IEOM)⁵⁴ has noticed that “the March 6, 2005 parliamentary elections in Moldova were generally in compliance with most OSCE and Council of Europe commitments and international standards. However, they fell short of meeting some commitments that are central to a genuinely competitive election process. In particular, they fell short of commitments regarding campaign conditions and media access; in this regard, negative trends signalled at the 2003 local elections have been confirmed.”

The Coalition 2005 concluded that “in general, the March 6, 2005 parliamentary elections partly respected the OSCE election standards and principles and commitments assumed by Moldova as member state to the Council of Europe.”

The Election Code was modified after the elections. Key amendments envisaged the reduction of electoral threshold; modification of the CEC status⁵⁵; new modalities to nominate members of constituency electoral bodies and polling stations; airing of electoral programmes with the generics “Elections”, etc.

- **July 10, July 24, November 27 and December 11, 2005 elections of Chisinau Mayor**

The elections for Chisinau Mayor were invalidated because of electoral absenteeism. However, the OSCE Mission to Moldova assessed an improvement of the electoral process, particularly regarding the campaign coverage by electronic mass media.

- **December 3 and 7, 2006 elections for Gagauz Bashkan**

The OSCE Mission to Moldova concluded that the December 3, 2006 elections for Gagauz Bashkan were generally calm. At the same time, it signalled that unfair conditions for electoral contestants,

⁵⁴ IEOM included observers from OSCE/ODIHR, OSCE Parliamentary Assembly, PACE and EP;

⁵⁵ CEC was made of 9 members nominated as follows: by one on behalf of the Presidency and Government and seven on behalf of the Parliament, including five by opposition parties accordingly to their number of mandates;

big number of elections entered on supplementary lists, and contradictory and ambiguous provisions of the Gagauz law on election of Bashkan raised concern. As regards the runoff vote, the OSCE Mission indicated better administrative and campaign conditions, compared with the first round.

- **June 3 and 17, 2007 general local elections**

IEOM⁵⁶ assessed that: “The June 3, 2007 local elections in the Republic of Moldova were generally well-administered and the field of parties and candidates offered voters a genuine choice. However, the elections fell short of meeting some OSCE and Council of Europe commitments that are central to a genuinely competitive election process. In particular, the right of citizens to seek public office was not fully respected and media access was not equitable. A number of opposition candidates were intimidated and pressured by the authorities, as well as by some members of the governing party. [...] The Central Election Commission (CEC) made commendable efforts to remain impartial throughout the process. The election campaign was lively and visible in urban centres, but more low-key elsewhere. Although campaign activities were generally unimpeded, equal opportunities were not always provided to all contestants, and several political parties complained that their meetings were at times obstructed.”⁵⁷ The final OSCE report confirmed these conclusions.⁵⁸

As regards the June 17 runoff vote, the IEOM concluded: „The second round on 17 June displayed marginal improvements, compared with the first round on June 3. However, major problems identified in the pre-election period persisted, particularly biased mass media and intimidation of candidates.”⁵⁹

Coalition 2007 assessed: „The June 3, 2007 local elections did not generally comply with international free and fair election criteria,”⁶⁰ while “the second round of local elections [on June 17] generally met the international free election criteria, except for the singular Corjova case, and they were partly fair.”⁶¹

Important issues regarding reduction of the electoral threshold for independent candidates and ensuring the participation of nationals from other countries in elections have not been remedied so far. At the same time, the possibility of building electoral blocs was excluded and the electoral threshold was initially lowered from 6 down to 4 percent and increased later again. The restriction of pre-electoral alliances is a serious limitation of freedoms that parties have enjoyed formerly.

⁵⁶ IEOM was made of observers from OSCE/ODIHR and Congress of Local and Regional Authorities of the Council of Europe;

⁵⁷ IEOM (2007a), *Communication on preliminary assessments and conclusions*, June 4, http://www.osce.org/documents/odihr/2007/06/24819_mo.pdf;

⁵⁸ *Republic of Moldova: June 3 – 17, 2007 local elections, Report by the OSCE/ODIHR Election Observance Mission*, Warsaw, September 21, 2007, http://osce.org/documents/html/pdftohtml/26372_mo.pdf.html;

⁵⁹ IEOM (2007b), *The second round of local elections in Moldova has improved, but there are serious shortcomings so far*, http://www.osce.org/documents/odihr/2007/06/25167_mo.pdf;

⁶⁰ Coalition 2007 (2007a), *The June 3 local elections generally complied with international free and fair election criteria*, Press release, June 4, <http://www.e-democracy.md/files/elections/local2007/coalition-2007-pr-4-june-2007-ro.pdf>;

⁶¹ Coalition 2007 (2007b), *The second round of local elections met free election criteria and were partly fair*, June 18, <http://www.e-democracy.md/files/elections/local2007/coalition-2007-pr-18-june-2007-ro.pdf>;

1.2.5 Mass media

- **Progress**

Key progresses in the media area include among others the Broadcasting Code (BC); the regulation on implementation and respect for BC; recommendations by the electronic media watchdog CCA concerning legalisation of broadcasters founded and funded by local public administrations; the nationwide broadcasting coverage strategy (2007-2010) adopted by CCA; the CCA ensures a better public access to information about its work.⁶²

- **Shortcomings and problems**

Opposition parliamentary parties⁶³ and media organisations⁶⁴ did not warm the way the Broadcasting Code was studied and adopted, saying that it was endorsed without a plenary public debate.⁶⁵ Further, many organisations including diplomatic missions to Moldova have raised concern with the application of the Broadcasting Code.⁶⁶

A number of national and international organisations noticed that the TeleRadio-Moldova Company did not meet all characteristics of a public broadcaster so far,⁶⁷ complying slowly with the new broadcasting law. In this regard, the condition of „Moldova 1” was described as more alarming than of „Radio Moldova”. The lack of a real progress throws doubts on efficiency of the Board of Observers of „TeleRadio-Moldova”, administration of this institution and CCA.

Many violations have been noticed during the reorganisation of the municipal channels „Antena C” and „Euro TV Chisinau” and further related developments, among which: the public interest was affected, the municipal community was not consulted, rights of staffs were ignored, the right to information was violated,⁶⁸ and free information space was obviously limited.⁶⁹ Developments related to the municipal channels did not correspond to recommendations made in December 2006 by the OSCE Mission and ten diplomatic missions in a joint statement on situation of the institutions concerned.⁷⁰

Many cases of restricted freedom of the media (for example, „Ziarul de Garda”; „PRO TV Chisinau”; „DTV”; „SP” newspaper), intimidation of journalists (PRO TV Chisinau”; „Euro TV Chisinau”) were observed from February 2005 to January 2008. Some media outlets have been

⁶² APEL *et al.* (2007), *Monitoring the Enforcement of the Broadcasting Code Project*, Press release, http://www.apel.md/comunic/COMUNICAT_DE_PRESA_191207.pdf;

⁶³ Minutes of the July 27, 2007 parliamentary sitting, <http://www.parlament.md/news/plenaryrecords/27.07.2006>;

⁶⁴ Joint declaration by specialised organisations, www.ijc.md;

⁶⁵ ADEPT and EXPERT-GRUP (2006), *Euromonitor*, # 3, p. 13;

⁶⁶ *Joint statement*, 15.12.2006;

⁶⁷ *Joint statement: Concerns with freedom of the media*, 14 March 2007, <http://www.azi.md/print/43594/Ro>; OSCE Mission to Moldova (2007), *Moldova's broadcasting reforms cause for concern, OSCE Mission Head says*, 19 February, <http://www.osce.org/item/23339.html>; Euroforum Consortium (2007), *Independent report by thirteen representatives of civil society in Moldova*, http://www.europa.md/upload/File/boxedreapta/raport_independent.doc; APEL (2007), *Monitoring the Enforcement of the Broadcasting Code Project*, Press release, http://www.apel.md/comunic/COMUNICAT_DE_PRESA_120907.pdf;

⁶⁸ APEL *et al.* (2007), *Monitoring the Enforcement of the Broadcasting Code Project*, Info-Prim Neo, February 7, www.info-prim.md;

⁶⁹ *Joint statement: Concerns with the freedom of the media*, 14 March 2007, <http://www.azi.md/print/43594/Ro>;

⁷⁰ OSCE Mission to Moldova (2007), *Moldova's broadcasting reforms cause for concern, OSCE Mission Head says*, 19 February, <http://www.osce.org/item/23339.html>;

withdrawn broadcasting licences and the public interest was thus harmed (radio channel „FM-103.5” in Balti, „TVR1”).

Also, Moldovan authorities did not fully accomplished the **Objective (9) of EUMAP**, which stipulates among others that **the state shall provide financial assistance to the media on the basis of strict and fair criteria for all media outlets**.

The access to information was relatively restricted. In particular, the transparency of public institutions is low, the law on access to information is neglected, the attitude of public functionaries is sometimes formalist or the latter are incompetent, the public information is excessively restricted. The rate of complete answers by central state institutions was higher than the one by local administration.⁷¹

According to the Freedom House study “Global Press Freedom 2007”, the Moldovan media is “not free”. Freedom House rated the independence of the media 5.25 in 2007, 5.00 in 2006 and 5.00 in 2005.⁷²

RWB has confirmed the Freedom House conclusions on the freedom of the media in Moldova. The 2007 RWB media index ranked Moldova on the 81st place among 168 countries and rated it 24.75 among states where the media faces serious freedom-related problems. The RWB rated the Moldovan media 19.17 in 2006, 17.5 in 2005 and 20.5 points in 2004.⁷³

1.2.6 Trade unions

- **Progress**

The merger of the Confederation of Trade Unions of the Republic of Moldova (CTURM) and the Confederation of Free Trade Unions of Moldova (CFTUM) into the National Confederation of Trade Unions in Moldova (NCTUM) in June 2007 was the greatest progress in the area.

Another moderate progress is the law on organisation and functioning of the National Commission for Collective Consultations and Negotiations, branch and territorial commissions for collective consultations and negotiations.

- **Shortcomings and problems**

Before and after the merger of the unionist movement into NCTUM, the confederation has a low influence on its social partners, though it has many members. The unionist movement in Moldova did not turn so far into a real protector of rights of its members, so that its partners are very discrete in making and implementing social policies.

1.2.7 Cooperation with CoE and execution of ECHR judgments

- **Progress**

Authorities were generally open and receptive in the dialogue with the CoE and other organisations

⁷¹ Acces-Info Centre (2007), *Enforcement of the law on access to information. Monitoring report*, www.acces-info.org.md;

⁷² Freedom House (2007), *Global Press Freedom 2007*, <http://www.freedomhouse.org/uploads/fop/2007/pfscharts.pdf>;

⁷³ According to the RWB methodology, the higher is the rate, the most deficient is the condition of the media;

interested in an adequate functioning of democratic institutions in Moldova.

With regard to cooperation with CoE, the Parliament has approved a legislative action programme in compliance with the Resolution and Recommendations by the Commission for the Honouring of Obligations and Commitments by CoE Member States. The Law on National Institute of Justice inaugurated in November 2007 and law on religious denominations and their components have been approved accordingly to the programme.⁷⁴

Moldovan authorities have executed ECHR decisions and paid the damages.⁷⁵ Also, the Parliament adopted the law on modification of the Law concerning Governmental Agent, which introduces new norms on exercising of the right to regress against persons whose deliberate activity was a ground for the ECHR to sentence Moldova.

- **Shortcomings and problems**

Although many actions should be implemented by July 2006 accordingly to the action programme on honouring of commitments towards CoE, many of them have been tardily accomplished or even failed. The Education Code and the law on statute of Chisinau municipality were not adopted. The way the People's Assembly of Gagauzia dismissed the Comrat mayor was not condemned and criminal charges against national and local opposition leaders were not investigated. Even more, certain national normative acts were adopted without a preliminary CoE survey and CoE recommendations were ignored sometimes.⁷⁶

Although they have paid the ECHR-ordered damages to applicants, Moldovan authorities delayed general, legal-normative actions, which explains why Moldova is repeatedly condemned under same charges: torture, violation of freedom of expression, illegal arrest, the glass wall in the CSAECC detention facility which separate inmates and their lawyers, etc.

Although the adoption of the law on modification of the Law concerning Governmental Agent was motivated in 2006 with the necessity to use the regress right against persons whose deliberate activity was a ground for the ECHR to sentence Moldova, very few such actions were initiated so far.

- **Priorities**

A series of actions shall be implemented, in order to improve the condition of democratic institutions. Key recommendations would be the following:

- Reduction of detention term before trial, organisation of inquiries in special investigation rooms, reduction of crowds in prisons, **introduction of a single and efficient system of social adaptation of former inmates (Chapter 14 of NHRPP; Objective (4) of EUMAP);**
- **Transfer of DPI from the MIA jurisdiction to the MJ (Chapter 7 of NHRPP; Objective (4) of EUMAP);**
- Application of European jurisprudence by national courts, creation of a reserve fund for the execution of judgments at national level;

⁷⁴ The sentence „Orthodox Church of Moldova” from the law on religious denominations and their components is regarded as restrictive and discriminating;

⁷⁵ ECHR decisions on Sarban, Modirca, Becciev, Musuc, Palade cases say that the version that criminal charges against these persons have been filed on political reasons is not groundless;

⁷⁶ Vladimir Ristovski, special representative of the CoE Secretary-General to Moldova, stated at a news conference on March 16, 2007;

- Adoption of the law on existence minimum, creation of an extra-judicial body to settle labour conflicts – the Labour Arbitrage;
- Introduction of a special provision in the Law on Political Parties to oblige parties to make public the criteria of issuance of lists of candidates;
- Introduction of a mechanism to allow Moldovan nationals from other countries to participate in elections;
- **Ensuring a state financial assistance for the media, which would be granted on the basis of strict and fair criteria applied on all mass media (Objective (9) of EUMAP);**
- The legislation shall stipulate the number of days after which a CCA decision shall be published in *Monitorul Oficial*.

2. Judicial system

2.1 Preliminary notes

The Republic of Moldova is facing serious problems in the area of justice, functioning of the judiciary system and law enforcement bodies in general. This assessment was confirmed more than once by state authorities and their representatives⁷⁷; international institutions and organisations⁷⁸; mass media, national and international experts.⁷⁹

People involved in relations with judges also experience grave deficiencies, and therefore, all surveys signal a low confidence of population towards the justice (about 30 percent trusts it).

The assessment of judicial reforms implemented the last years reveals that majority of actions have been partly implemented, given the lack of a well-done complex concept or strategy to regulate principles, goals and finalities of such reforms. Initiated criteria and principles stipulated by the judicial and law reform concept⁸⁰ have been modified and readjusted to objective or subjective needs, but a new concept (strategy) was not approved.

Although it was formally created after 2001, the coordinating council for the judicial and law reform did not work, with all central institutions, in particular, President, Parliament, Government, SCM, SCJ, MJ, etc., being periodically in charge with problems of the judiciary, but they did not

⁷⁷ Report presented by SCM chairperson at the February 3, 2006 annual conference of judges; Minutes of the conference „Evolution of the judicial reform in Moldova. Accomplishments, problems, prospects” (6-7 September 2006); Reports and speeches delivered at the annual conference of judges on 09.02.2007 (President of Moldova, CSM chairperson, minister of justice); Speech delivered by prime minister at the sitting of the Ministry of Justice Collegial Council (22.01.2007); Reports by the Centre for Human Rights in Moldova (2005, 2006), etc.;

⁷⁸ ECHR decisions versus Moldova; CoE recommendations and resolutions on functioning of democratic institutions in Moldova (Resolution 1465 (2005), Rec 1721 (2005)), reactions by the CoE Council of Ministers, PACE with regard to respect for the rule of law, execution of judgments; Half-year monitoring report, OSCE-Moldova, 2006; Report by the U.S. Department of State „Human rights in Moldova 2006”; World Bank Report „Worldwide Governance Indicators 2006”; National Human Development Report 2006, UNDP-Moldova; Reports „Assessment of the judicial system – Moldova” (CEPEJ, 2004) and „Judicial Systems in Europe 2006” (CEPEJ, 2006);

⁷⁹ Report „Control on judiciary independence in the Republic of Moldova”, OSJI/Freedom House Moldova, 2003; Study „Financing of the justice in the Republic of Moldova”, CSPJ 2005; Study „Evaluation of needs of the judicial system in Moldova” (SCM, SCJ, Helsinki-Moldova Committee); Analytical Report „Dialectics of Moldovan justice...”, CAPC 2005; IJC Report “MOLDOVA: The Rule of Law in 2004”; Freedom House Reports „Nations in Transit”; Economic Freedom Indexes, The Heritage Foundation/The Wall Street Journal; Study “Moldova’s Uncertain Future”, Crisis Group Europe, 2006; Report by the U.S. Bar “Indicators of the Judicial Reform” (volume II, 2007); „Euromonitor” reports, ADEPT/Expert Grup, etc.;

⁸⁰ PD # 152-XIII from 21.06.94;

have a clear political determination and willingness, a fact which is partly explained by persistent problems in this area.

A series of shortcomings in the area⁸¹ have been formally signalled in the Economic Growth and Poverty Reduction Strategy Paper and priorities for a three-year term (2005-2007) have been underlined. Diverse programmes and strategies adopted in 2005-2007 included distinct components of judicial reforms.⁸² However, they have partly approached the situation, given the essential goal of these documents. Just in July 2007 the Parliament adopted the **strategy on consolidation of the judicial system** and an action plan on implementation of this document,⁸³ but there are serious omissions in the document, in particular:

- The lack of concrete terms (majority of terms are annual or biannual);
- Some terms have been violated from the very beginning⁸⁴;
- Vague indicators (existence of elaborated projects instead of applied norms);
- Concomitant non-allocation of adequate human, financial and technical resources;
- The lack of provisions on appointment of a coordinating/monitoring body;
- The lack of institutionalised mechanisms to independently monitor the implementation, etc.

2.2 EUMAP about consolidation of the rule of law in Moldova

EUMAP stipulates the “continued consolidation of judicial capacities” as a special priority and indicates the *„strengthening of the supremacy of law by enhancing the efficiency of the judiciary”* as an essential task. Also, it especially signals the necessity of *„revising the legislation in order to ensure the independence and fairness of the judiciary, inclusively to ensure the fairness and efficiency of the prosecutor’s office, as well as to strengthen the capacity of the justice.”* For this purpose, Moldovan authorities should implement actions and measures synthesised in EUMAP⁸⁵:

- Continuation and implementation of legal actions aimed to further reform the judicial system in accordance with European standards;
- Updating of the law on judicial organisation to ensure its independence, fairness and efficiency, inclusively by clarifying the nomination and promotion procedure, status-based rights and obligations of judges;
- Implementation of the new law on prosecutor’s office accordingly to European standards;
- Better training, especially concerning human rights and judicial cooperation of judges, prosecutors and judicial functionaries, administration of the Ministry of Justice, police and prisons;
- Development of alternative ways to settle litigations, including mediation and arbitration.

2.3 Implementation of EUMAP in terms of rule of law

• Progress

Besides *enhanced international assistance*, clear progresses like in other areas EUMAP-covered consist of *revision of existing legislation and adoption of new regulations*. In particular, the following laws have been revised: concerning the status of judges; judicial organisation; creation

⁸¹ Point 260 of EGPRSP (Law # 398/02.12.2004);

⁸² NHRP (PD # 415-XV from 24.10.2003); national anti-corruption strategy (PD # 421/2004); IPAP RM-NATO (GD # 774/2006, # 1506/2006); action plan within the Millennium Challenge Account (GD # 32/11.01.2007); action plan on implementation of the Joint EC and CoE Programme (GD # 959/22.08.2007); action plan on respect for the right to petitioning, information and access to justice (GD # 1013/12.09.2007), etc.;

⁸³ PD # 174-XVI from 19.07.2007;

⁸⁴ One theoretical action (normative elaboration) out of 5 actions stipulated for 2007 has been implemented;

⁸⁵ EUMAP, chapter 2.1 (2);

and functioning of the Superior Council of Magistracy (SCM); disciplinary college and disciplinary responsibility of judges; Government Agent of Moldova to the ECHR,⁸⁶ etc. In spite of a serious delay, new important legal acts have been adopted and endorsed (with certain exceptions):

- The Execution Code (Law # 443-XV from 24.12.2004) and the Law # 204-XVI from 06.07.2006 concerning the forced execution system;
- The Law # 152-XVI from 08.06.2006 concerning the National Institute of Justice;
- The Law # 333-XVI from 10.11.2006 concerning the status of criminal officer;
- The Law # 59-XVI from 15.03.2007 concerning the status and work of clerks from law courts;
- The Law # 198-XVI from 26.07.2007 concerning state-guaranteed legal assistance;
- The Law # 371-XVI from 01.12.2006 concerning international legal assistance in criminal matters;
- The Law # 134-XVI from 14.06.2007 concerning mediation, etc.

The following actions have been taken to approach *organisational-administrative aspects in the judicial area*: measures to build the judicial management department⁸⁷; approval of a type-structure of the apparatus of judges and courts of appeals (Order # 275 by the Ministry of Justice from 16.07.2007); consideration of possibilities to transfer functions to auxiliary personnel of law courts. The judicial system was computerised and concepts on the area have been approved.⁸⁸ Regulations aimed at making judges disciplinarian and enlarging the range of violations for which magistrates shall be reprimanded have been introduced in legislation.

Under amendments to the Law # 174-XVI from 22.07.2005, a new *Superior Council of Magistracy* was created, with majority members (7 judges) being appointed by the General Assembly of Judges. Also, *ex officio* members of the council have been restricted from chairing the SCM and, therefore, political-administrative influences and interferences have been prevented. Under Law # 185-XVI from 26.07.2007, it was decided to create the Judicial Inspectorate to advise the SCM; the new structure should become functional in early 2008. The transparency of SCM has grown (decisions are published in MO, on website), but not enough to meet the minimum control and public information criteria.⁸⁹ SCM has approved important normative regulations and decisions concerning⁹⁰:

- The organisation and functioning of the SCM Apparatus;
- The organisation and conduct of the contest for vacancies of judges, chairpersons or deputy chairpersons of law courts, promotion to higher-level courts;
- The random distribution of cases in law courts;
- The schedule of attestation of judges for the confirmation of qualification degrees.

Being formally based on certain recommendations by CoE experts, the *Prosecutor's Office* has plans to follow own reformation way and several new draft laws have been worked out for this purpose, in particular, concerning the organisation of the Prosecutor's Office; the status of the Prosecutor's Office; the Superior Council of Prosecutors. The current legislation on *activity of the Prosecutor's Office* did not undergo essential changes, with evolutions in this area envisaging:

⁸⁶ Laws # 174-XVI from 22.07.2005, # 247-XVI from 21.07.2006, # 399-XVI from 14.12.2006 and # 185-XVI from 26.07.2007; Law # 48-XVI from 09.03.2006;

⁸⁷ GD # 670/2007 and # 1202/2007;

⁸⁸ GD # 776/2007 concerning approval of the judicial information system concept for 2007-2008;

⁸⁹ Unsatisfactory quality, seldom updating of websites: www.scjustice.md; www.csm.md; lack of a special periodical of SCM;

⁹⁰ SCM decisions # 68/3 from 01.03. 2007; # 132/6 from 26.04.2007;

- The modification of the procedure to succeed to a ranking (80 percent via NIJ, as well as from certain public authorities [parliamentarian, member of the Court of Auditors, SCM functionary], judicial system [lawyer, judge, professor, criminal officer, ombudsman, legal advisor, executor]) after taking a qualification test;
- A clearer hierarchy of prosecutors (Article 15 (1¹-1⁴ of the Law on Prosecutor's Office);
- The clarification of norms concerning⁹¹ the civil case filed by prosecutor; appeal against administrative acts; ordinance of the prosecutor; mandate of territorial prosecutors; filing of criminal charges against prosecutors by Prosecutor-General only); mandatory professional training, etc.

The process of *public information about work of the Prosecutor's Office* has progressed much, in particular, annual and thematic reports, periodical syntheses have been worked out and published; communiqués have been released; a concept on promotion of the public image of the Prosecutor's Office is being implemented; Prosecutor's Office representatives actively participate in public thematic manifestations (seminars, conferences, workshops, roundtables). The launching of a new and permanently updated website www.procuratura.md helps boosting the transparency.

The adoption of the legislation and organisational actions to open the *National Institute of Justice*, though they do not have a perceptible impact for the time being, has opened the first "scientific-didactic" contests for accession to justice and prosecutor's office. The first promotion will graduate from NIJ in 2009 only and it is hard now to forecast the efficiency of the education, but the transparency and correctness of the selection process, as well as the special interest of candidates to the admission contest seem to assure that professional individuals will graduate from this institute. Thematic courses including periodical seminars are being held via:

- The Supreme Court of Justice⁹²;
- Projects implemented by international organisations⁹³;
- Specialised nongovernmental organisations.⁹⁴

SCM is periodically considering problems related to the sentencing of Moldova by ECHR, with the purpose to find shortcomings in activity of law courts.⁹⁵

The following **remarkable progresses** in the area of justice and related areas were observed:

- Lower number of unexamined cases, better quality and celerity of their examination⁹⁶;
- Adequate actions related to examination of criminal cases involving arrested defendants⁹⁷;
- More attention of the Prosecutor's Office towards respect for human rights⁹⁸;
- Positive attitude of international, community institutions⁹⁹;
- Adequate resolution of sounding cases (release of persons from detention, as charges brought against them were insufficiently grounded)¹⁰⁰;

⁹¹ Law # 70-XVI from 22.03.2007;

⁹² Explanatory decisions by SCJ; SCJ methodical assistance programmes (SCJ Decision # 24 from 12.12.2005, SCJ Decision # 13 from 19.06.06, and others); publications „Manualul Judecatorului”, „Ghidul Pregatirii Pricinilor Civile Pentru Examinare”, and others;

⁹³ European Commission, Council of Europe, UNDP, World Bank, OSCE;

⁹⁴ Courses and seminars organised with the support of Soros Foundation, ABA CEELI, German Foundation IRZ, Ex Lege Agency, IPR, etc.;

⁹⁵ The SCM sitting from 07.08.2007 decided to study ECHR-examined cases every trimester;

⁹⁶ SCJ reports, statements by SCM chairperson, SCJ chairperson;

⁹⁷ PD # 370/28.12.2005 and PD # 233/14.10.2005; Decisions by SCJ Plenary: # 4 from 28.03.2005, # 19 from 31.10.2005, # 6 from 27.02.2006, # 22 from 05.11.2007;

⁹⁸ Sitting of the Moldovan Prosecutor's Office College from 24.04.2007;

⁹⁹ Meeting of Moldovan and EU experts in the area of the judicial reform and anti-corruption fight, September 2007;

- Better access to legal databases, installation of electronic databases (Moldlex) in law courts, online availability of national legislation and ECHR jurisprudence (www.justice.md);
- Actions aimed to boost the transparency and prevent corruption in the system¹⁰¹;
- Special attention towards execution of judgments¹⁰².

The institution of *unpaid work for the benefit of the community* was the main and widely implemented way among *alternative ways to settle litigations*. The *mediation* institution was institutionalised but its enactment was postponed. The draft law on *probation* is being discussed, with this institution being spread via pilot projects (due to certain provisions which admit/institutionalise this institution). Community justice centres are being registered in districts of the country. The Criminal Code was modified (sanctions for some offences have been revised, alternative penalties have been established, the maximum jail term for minors has been reduced, the legal framework on educative compulsion has been enlarged, etc.).

• Shortcomings and problems

After three years of implementation of EUMAP, so far the situation in the area of justice *is raising concerns* of national authorities¹⁰³ and community and international institutions,¹⁰⁴ as well as of most interested subjects – common citizens,¹⁰⁵ in spite of many actions and programmes. Existing shortcomings affect the economic, social and political development of the country, reduces the internal credibility of authorities and deteriorates the foreign image of the country.

Main reasons of shortcomings include among others the *attitude of political authorities* towards the third power in the state. Thus, the legislature and executive have not realised earlier and in the past seven years, since they are ruled by a single political force, that the justice is a equal institution though they assure that they promote the independence of the judiciary and they call for a serious reformation of the area, but they do not support these statements with legislative, administrative, financial, material, human and political investigations.¹⁰⁶ Unlike public administration and other

¹⁰⁰ Evolution of the Valeriu Pasat case, related statement by U.S. Ambassador to Moldova (DTV channel); statement by the co-chairperson of the EU-Moldova Parliamentary Cooperation Committee, Marianne Mikko, 11.07.2007;

¹⁰¹ Modification of legislation (advertising of the process, judgments); opening of websites (SCM, SCJ); appointment of judges in charge with media relations (www.justice.gov.md); approval of rules on random distribution of cases; elaboration of the Ethic Code of judge; coverage of contests for vacancies by MO and website; implementation of special programmes (including with international assistance), etc.;

¹⁰² Updating of existing regulations and adoption of new regulations in this area; approval of the development strategy of execution system (GD # 1393 from 12.12.2007) and concept of the automatic information system called register of execution procedures (GD # 1520 from 29.12.2007);

¹⁰³ Moldovan President told a working sitting on implementation of EUMAP on 03.12.2007 that „*we shall put special efforts to improve Moldova's indicators on anti-corruption fight... judicial system*”; the consolidation of the judicial system continues to be a priority stipulated by the National Development Strategy (NDS) until 2011 (Law # 295-XVI 21.12.2007).

¹⁰⁴ Press release by European Parliament, Luxembourg, 19.06.2007, 11009/07 (Press 143); Moldova-EU meeting at level of experts in the field of judicial reform and anti-corruption fight (September 2007); ECHR decisions against Moldova; Statements delivered by Mrs. Hilda Hardeman at the 8th Meeting of the Moldova-EU Cooperation Committee; the CoE Council of Ministers adopted a document at the June 6-7, 2007 sitting, saying that “*the Republic of Moldova should implement legislative actions and reforms in the area of justice, in order to prevent the non-execution of judgments*,” as Moldova is considered a “relevant state” in this respect because of many applications to the ECHR; Interview with Vladimir Ristovski, special representative of the CoE Secretary-General, published by Info-Prim Neo Agency on 26.07.2007; Statements delivered to journalists at the end of the bilateral meeting between Vladimir Voronin and EC President Jose Manuel Barroso on 14.01.2008;

¹⁰⁵ Applications submitted to the CHRM, applications submitted by Moldovan citizens to the ECHR;

¹⁰⁶ Majority of programmes, plans and strategies implemented in the area are not concomitantly covered with necessary resources, there is a serious stake on international assistance, while a distinct budgetary programme is absent; the

law enforcement bodies (police, prosecutor's office, security and control bodies, etc.) the justice is most dependent on political power and interests of the ruling elite. But much independence troubles sometimes, as by having the power to tell the "last word" and the authority of trying, the justice may reduce the politico-administrative and electoral "efforts" by imposing actions that correspond to the law but not to the public-private interest. For these reasons inclusively, the justice is not treated on an equal footing and the political power meddles in the area and sometimes it tries to subordinate or subdue the justice.¹⁰⁷ It is very alarming that this is done sometimes, and the judiciary does not resist or it has a poor reaction.¹⁰⁸

Authorities have indicated the following *most serious problems* for the judicial system¹⁰⁹:

- Much work (certain judges have to process up to 70 cases a month);
- The shortage of qualified human resources;
- The non-execution of definitive judgments;
- The limited application of alternative solutions to litigations (mediation, arbitration);
- The short funding and poor technical-material endowment;
- The corruption and other illegal interests.

The monitoring of the area by „Euromonitor” reports and general approach of the situation of the Moldovan justice signals other shortcomings:

- The clear political unwillingness to ensure the independence and fairness of the justice separately of other powers of the state; the political power continues to hold levers for appointing and promoting judges¹¹⁰;
- The difficult establishing of concepts, very late elaboration and promotion of reforms in the area¹¹¹; delayed actions planned by diverse strategies and programmes¹¹², formal execution of planned actions, without any estimation of the impact and monitoring of the implementation;
- Continued negligence of principles of the rule of law, equality in front of law, as administrative authorities and high-ranking functionaries¹¹³ do not execute judicial decisions;

development strategy of the judicial system was enacted just when the implementation of the EUMAP was almost finished, so that the results and impact cannot be assessed;

¹⁰⁷ Meddling and attempts to influence/ control are also deduced from situations such as political control on staff appointment and promotion, staff sort-out in 2001-2006; insufficient funding of this sector (compared with other law enforcement bodies); delayed reforms and endowments (judicial police, computerisation, training, low salaries of auxiliary personnel); attempts to annul existing inviolability and immunity; inappropriate remuneration, absence of adequate social guarantees accordingly to responsibility, etc.;

¹⁰⁸ SCM, association of judges have a weak reaction to accusations of authorities, they do not intervene when the appointment of judges is turned down (case of Gheorghe Ulianovschi and other judges whom the Parliament did not nominate without arguments);

¹⁰⁹ NDS for 2009-2011;

¹¹⁰ Moldovan President and Parliament have the right to turn down SCM proposals without grounds or on basis of illegally collected materials (operative reports, secret characteristics, information by intelligent services, anonymous documents, etc.); Unmotivated rejection of certain candidacies at the 22.06.2007 parliamentary sitting; Interview with lawyer A. Tanase published by „Analitique” on 25.07.2007;

¹¹¹ Strategy on consolidation of the judicial system was enforced in late 2007 only, while majority of serious reforms in the area have been already implemented, being promoted incompletely and casually;

¹¹² For example, the following documents have not been adopted so far: the new Code of Contraventions, the law on probation, a new law on arbitration; the law on mediation was adopted with a serious delay, while the implementation is protracted for a long period; there are difficulties to enforce the law on state-guaranteed legal assistance; subordination of the judicial police; actions aimed to boost the transparency proceedings (registration of sittings) have been postponed for long periods;

¹¹³ Media reports (articles by „Ziarul de Garda”, „Timpul”); Interpellation submitted by deputy Igor Klipii at the November 22, 2007 parliamentary sitting concerning non-execution of definitive judicial decisions by the Ministry of

- The negligence of the law is tolerated as the prosecutor's office does not have an adequate reaction (absence of charges and [criminal, administrative, disciplinary] penalties against functionaries and other subjects for non-execution of judicial decisions);
- Participation of the judiciary in political persecutions¹¹⁴;
- The leadership of the prosecution is dependent so far on politics,¹¹⁵ the hierarchic subordination of prosecutors is legally sanctioned in continuation¹¹⁶; competences of the prosecution are wide and sometimes biased;
- Arguing with the anti-corruption fight and recommendations by international experts, authorities limit the immunities and inviolabilities of judges, and this may limit their independence,¹¹⁷ SCM, SCJ do not warm the respective initiatives on modification of the law¹¹⁸;
- Business representatives signal many shortcomings in the justice-making sector (long terms, contradictory decisions, high fees, long-term and faulty execution)¹¹⁹;
- International assessments signal a lower confidence towards the rule of the law¹²⁰; majority of reform factors are stagnating, many studied factors are worsening¹²¹;
- Quality of tried criminal cases is unsatisfactory so far, the general indicator of cassation of sentences by all courts is over 16 percent; the number of civil cases has grown and the number of unexamined cases is relatively high¹²²;
- The selection of personnel for the judicial system is low, the selection for international offices (ECHR) is based on wrong and subjective appreciation of skills and education of candidates¹²³;
- Judges do not know and do not appropriately apply the ECHR jurisprudence¹²⁴;
- Unsatisfactory activity of other justice-makers¹²⁵;
- The corruption persists.¹²⁶

Education and Youth (this ministry is allegedly the "leader of non-executing rulings," and the ECHR often sentences Moldova for this fact);

¹¹⁴ Study "*Moldova's Uncertain Future*", Crisis Group Europe, www.crisisgroup.org; ECHR decision on „CDPP vs. Moldova”; partially dissident opinion by ECHR judge G.Bonello concerning the case “Flux (nr. 2) vs. Moldova”; evolution of cases filed against politicians Serafim Urechean, Gheorghe Sima, Eduard Musuc, Nicolae Andronic, case of Valeriu Pasat, cases of Chisinau City Hall functionaries Vladimir Sarban, Ion Paladi, Vladimir Modirca, Constantin Becciev, etc.;

¹¹⁵ Parliamentary majority is in charge with nominating/ confirming the Prosecutor-General and his/ her deputies (Article 16 of the Law # 118-XV from 14.03.2003 concerning the Prosecutor's Office); Debates at the roundtable on „Reform of the Prosecution in the Republic of Moldova”, 17.04.2007;

¹¹⁶ Articles 15-16 of the law on prosecutor's office;

¹¹⁷ Draft laws promoted by the Ministry of Justice, CSAECC (registered in the parliament with the number 1642 from 26.04.2007 and 1719 from 03.05.2007);

¹¹⁸ Interview with SCJ chairman published by Logos Press on 13.04.2007; article „Двойная защита” для служителей фемиды” published by Logos Press on 07.04.2007;

¹¹⁹ Roundtable on the “Role of the Judicial System in Business Development” from 05.04.2007 held as part of the business forum; “Кишиневский Обозреватель” newspaper, 05.04.2007, 12.04.2007;

¹²⁰ World Bank report “World Governance Effectiveness 2006”, section V, www.govindicators.org; www.worldbank.org;

¹²¹ Study “Indicators of Judicial Reform” vol.II-2007, ABA;

¹²² Report on work of law courts in the first semester of 2007, SCJ Newsletter # 8, 2007;

¹²³ Interview with Constitutional Court judge V.Puscas published by Analitique on 28.04.2007;

¹²⁴ Assessments made during public hearings on 19.07.2007 organised by parliamentary commissions for human rights, justice, rules and immunities;

¹²⁵ Inefficient activity of criminal investigators (Prosecutor's Office, MIA, CSAECC), violated procedures, inappropriate processing of cases, which attracts payments, cessation of proceedings in law courts on procedure-related reasons but not linked to evidence alone;

¹²⁶ Thematic and general surveys reveal that the judiciary is corrupt (Molico IMAS 2007 survey, periodical survey Barometer of Public Opinion, and others); SCM has reacted via press statements only to statements by experts who

• Priorities

According to the formal opinion of authorities, the judicial system of Moldova shall reach the following objectives¹²⁷: modernisation and optimisation; elaboration and implementation of reforms focussed on fairness, better performance and credibility of judges; wider access to legal services. In order to accomplish these goals, a series of actions shall be implemented, in particular:

a) *Consolidation* by implementing the appropriate strategy:

- Consolidating the legal framework, building an efficient mechanism to monitor the application of laws on strengthening of the judicial system;
- Ensuring the transparency of the justice-making process; improving the dialogue between civil society and judiciary, publishing rulings and ensuring the access of the media to court sittings;
- Introducing a mechanism to unify the legal practice;
- Strengthening institutional capacities of the Superior Council of Magistracy;
- Consolidating the National Institute of Justice;
- Enhancing the efficiency and responsibility: reducing the term of legal proceedings, the volume of work and ensuring a reasonable use of human resources;
- Continuing the computerisation process;
- Reforming the funding of the judicial sector: implementing a transparent budgetary planning and control mechanism.

b) Optimising *measures of execution* of judicial decisions:

- Elaborating a mechanism to finance expenses for the execution;
- Ensuring the electronic access of executors to databases needed for an efficient work;
- Active participation and distribution of responsibilities to creditors and debtors in the process of execution of judicial decisions.

c) Ensuring a *free access to the justice*:

- Reforming the state-guaranteed legal assistance system by ensuring an efficient access of socially vulnerable people to the justice;
- Opening a national state-guaranteed assistance council and territorial offices;
- Informing citizens with regard to ways and conditions to get state-guaranteed legal assistance;
- Opening public bar offices.

d) Consolidation of the *juvenile justice*:

- Evaluating the necessary personnel and place to investigate and try cases involving minors (victims or offenders) in best conditions;
- Improving the legal framework: unitary regulation to simplify procedures and increase proceeding guarantees for minors;

indicated a possible tacit deal between the governance and judges, with the latter awarding victory to the governance in exchange for promises not to be punished for bribery (statements by chairperson of the Organisation Lawyers for Human Rights, 14.11.2007); law enforcement bodies fear that judges do not keep step with other bodies in combating corruption, they absolve of punishment or establish unessential penalties (draft national anti-corruption report 2007), while the SCM did not clearly react to these accusations;

¹²⁷ National Development Strategy for 2009-2011;

- Building the infrastructure needed for an adequate functioning of the juvenile justice, specialising judges and other personnel working in the judiciary system, building an accessible documentation and information centre in juvenile justice matters.

The nongovernmental and independent expert environment recommends other priorities aimed at strengthening the judicial system of Moldova:

- Annihilating interventions and influence by political authorities on justice; ensuring the independence and inviolability of judges; preventing possibilities of influencing the promotion and nomination of personnel to the system;
- Advertising cases of administrative and political influence, punishment for meddling; punishing judges who commit abuses and violations because of foreign influences; serious monitoring and prompt intervention by international institutions, civil society and mass media; inclusion of independent representatives (of civil society, mass media without political or institutional affiliation) in SCM;
- Continuing and developing international cooperation, respect, immediate and complex honouring of recommendations by international and community institutions (CoE, EC, OSCE, legal institutions, etc.);
- Elaborating and implementing distinct strategies on funding of justice; revising of remuneration and social assistance principles for judges, prosecutors and auxiliary personnel of courts;
- Consequent implementation on time and with maximum probity of measures and actions stipulated by policy documents on the area concerned (strategies, programmes, plans, concepts, etc.);
- Urgently promoting and endorsing new special laws (Code of Contraventions, law on probation, law on arbitration); ratifying relevant international acts (for example, the European Convention on the Compensation of Victims of Violent Crimes);
- Reducing the examination term of cases; simplifying procedures; rising the number of judges; forming corps of advisors/ assistants for every judge; specialising judges on distinct branches and areas (particularly of basic courts);
- Updating legal education standards, optimising legal education curricula and plans; in-depth specialisation of students, long-term qualified professional courses;
- Reforming the Prosecutor's Office: ensuring the independence of the Prosecutor-General and its deputies; establishing the role and place of the Prosecutor-General in SCM (this quality is improper as long as the prosecutor's office is not part of the corps of magistrates); reducing possibilities to hierarchically influence the administrated cases; paying more attention to rights of citizens; limiting possibilities of abusive involvement in economic sector;
- Improving the legal survey system: law courts shall use it more often, reducing costs, enhancing effectiveness, ensuring an appropriate endowment, rising the number of experts;
- Rapidly examining political cases with a maximum correctness and probity;
- Fairly promoting the idea to make judges responsible for their decisions: filing regress cases only when the guilt is grave and proved, in order to prevent the influencing of deliberation against public interest and justice;
- Increasing the access of justice makers and citizens to legal information, reducing costs of electronic legal databases, Monitorul Oficial, etc.

3. Consolidation of administrative capacity

Action priorities set in the first section of EUMAP include among others the **continued consolidation of administrative capacities**. Correspondingly, the EUMAP stipulates the necessity of „*consolidating stability and effectiveness of institutions guaranteeing the democracy and the rule of law,*” „*continuing the administrative reform and strengthening the local self-administration in accordance with European standards...*”¹²⁸ Aspects regarding administrative capacities and their consolidation may be found elsewhere in EUMAP, being actually a basis of the mechanism of consolidation of capacities of public institutions in Moldova.

The Action Plan does not contain clear definitions and objectives, which if achieved, would mean that certain administrative capacities are already consolidated enough. There are no pre-established criteria and thus the results may be also perceived differently:

- The Government and public institutions concerned plead for a *very general degree*, which was adapted to executed or ongoing actions;
- The society and organised groups, citizens separately call for and expect *much more essential*, quantified and perceptible results;
- International institutions particularly those representing the community confirm some results, but consider that they are insufficient, with the problem of *practical implementation of legal and normative acts* being a permanent concern, and consolidated administrative capacities being needed for this reason.

The administrative capacity means the aptitude of public institutions to identify clear objectives, to establish exact priorities and to efficiently implement priority policies. Establishing and enhancing capacities of administration to assimilate and implement the *acquis communautaire* are envisaged in the European integration process. It also includes the capacity of reacting adequately in crisis situations; fulfilling some tasks in short terms; ensuring quality of training and continued retraining of public functionaries; developing optimal intergovernmental relations; ensuring an efficient interaction between central government, local authorities and communities; developing relations between (governmental) public sector and private sector (business, social, cultural, civic, etc., environment); ensuring promptitude in making qualified and opportune decisions; reducing bureaucracy and corrupt practices; implementing modern information technologies, etc. Thus, the final goal of the process of consolidation of administrative capacities is to ensure what is called “good governance”.

There are no universal legal documents to clearly define the “good governance”, but its components may be established through a synthesis of dedicated principles in activity of modern public administration¹²⁹:

- Confidence, predictability, legality;
- Clarity of responsibilities;
- Opening and transparency;
- Political neutrality, separation of political and administrative functions;
- Efficiency and effectiveness;
- Democratic mediation of interests;
- Public communication and citizen participation;
- Technical and managerial competence;
- Public justification of expenses;

¹²⁸ Section 2.1 (*Political dialogue and reforms*) of EUMAP;

¹²⁹ Principles are based on political accession criteria and accepted by European Commission;

- New information technologies;
- Adaptation to external developments, and others.

Within the „Euromonitor” report, which quarterly assesses the progress in implementing the EUMAP, the chapter on consolidation of administrative capacities and good governance is divided into several sections and the most important are: Central Public Administration (CPA) Reform; Local Public Administration (LPA) Reform; Depoliticising. Transparency. Anti-Corruption Fight.

3.1 CPA Reform

Reference acts in the area are the following: the CPA reform strategy and initial plan¹³⁰ and the in-depth plan on implementation of the CPA reform strategy.¹³¹

Components of CPA Reform:

- Reorganisation of CPA* by following the general objectives: institutional and functional optimisation of the central executive; delimitation of policy elaboration and implementation functions.
- Optimisation of decision-making process*, with the purpose to enhance the capacity of elaborating policy documents, analysing and monitoring their enforcement; optimise the planning and reporting system; improving the quality of adopted documents; introducing an advisory mechanism between CPA authorities; introducing and using Information Technologies (IT).
- Improvement of human resources management*, with the purpose to form corps of professional, responsible, unbiased, honest, stable and efficient public functionaries accessible to citizens by optimising the management of public ranking and public functionaries; improving the human resources management; improving the system of motivation of public functionaries.
- Development of public finance management*: annually reporting on accomplishment of goals of sectoral programmes and efficiency of use of financial resources; enhancing capacities of strategic and budgetary planning subdivisions to analyse options and assess the impact, costs; assessing performances in comparison with the size of resources.

- **Progress**

- Opening of a special unit to implement the strategy (now it is called policy coordination analysis directorate advising the Government Apparatus) and of the administrative support office; signing of the assistance agreement and setup of the fiduciary fund to sustain the CPA reform;
- Functional analysis of CPA bodies; opening of policy analysis, monitoring and evaluation units (8 units) in certain ministries;
- Reorganisation of central institutions and subordinated bodies, reduction of the number of personnel of central apparatuses;
- Periodical analysis by the governmental commission for the CPA reform, internal and external monitoring of implementation of the strategy;
- Opening of the national centre for the harmonisation of legislation¹³² and approval of the national harmonisation plan for 2007 (GD # 883 from 06.08.2007);

¹³⁰ GD # 1402 from 30.12.2005;

¹³¹ GD # 54 from 18.01.2007;

¹³² GD # 190 from 21.02.2007;

- Adoption and enforcement of two legal acts with a great impact on delimitation of administrative-economic interferences: Law # 235/20.07.2006 concerning basic regulatory entrepreneurship principles and Law # 121/04.05.2007 concerning management and privatisation of public property;
- Adoption of governmental decisions aimed to boost the efficiency of CPA¹³³;
- Adoption of important documents on information development of CPA,¹³⁴ and others.

• **Shortcomings and problems**

- Failure of deadlines for elaboration/ adoption of acts and execution of actions;
- Imperfect enforcement of legislation and normative acts, inefficient parliamentary control;
- Excessive politicising of public administration;
- Short funds for the implementation of reforms in the area;
- Insufficient modern information technologies, lack of joint electronic systems of record, systematisation and circulation of documents;
- Delayed adoption and enforcement of new laws concerning public function and status of public functionary; concerning central public administration; concerning decision-making transparency; concerning ministerial responsibility; concerning conflicts of interests, etc.
- The stable office principle is not institutionalised and implemented in compliance with CPA legislation and norms;
- The legislature is not fully and efficiently involved in the CPA reformation process, with this area resting with the executive, which this way is “self-reforming” often through interventions and accordingly to spontaneous instructions;
- The report on the implementation of CPA reform in 2007 signals some problems¹³⁵: plans are not strategically framed and standardised; some functions and competences of ministries and other central authorities are not clearly defined and they double each other; the reduction of the maximum personnel of ministries was not always followed by transfer of policy execution tasks from central administrations to subordinated institutions or decentralised services; underdeveloped information system of CPAA, with documents being processed on registers by hand; quality of some documents is poor, their execution terms are extended; conflicts of interests occur and they are not legally settled; the methodological framework on elaboration of documents is underdeveloped so far; CPA reporting system is inefficient and difficult so far; a high fluctuation of public functionaries persists; there are many vacancies (12-33 percent); there are no criteria to assess performances of public functionaries in order to apply financial stimulus; employment on the basis of open competition is low so far (about 1/3 of employees in 2007); a competent central unit in charge with public service does not exist; there are problems to organise internal training, and others;
- Starting 2005, the Government reform has focussed on internal amalgamations and change of names, there are more ministries at present (17) than in 2005 (15), there are many central structures coordinated by the executive (14), there are many independent central (regulatory) structures;
- Personnel of CPA authorities is so far appointed, transferred unfairly, few functionaries are employed on the basis of an open contest;

¹³³ GD # 710/2006, # 1143/2006, # 1230/2006, # 31/2007, # 33/2007, # 104/2007;

¹³⁴ GD # 668/2006, # 733/2006, # 1004/2006, # 1032/2006, # 844/2007, # 916/2007, # 969/2007;

¹³⁵ Report by the policy coordination analysis directorate of the Government Apparatus, www.rapc.gov.md;

- Professional retraining of public functionaries is very slow, mass training is protracted, funds basically come from foreign partners and they are not annually planned, quality of training courses is unsatisfactory. Investments in human resources are insufficient, internal training is almost inexistent;
- A high personnel fluctuation is observed in ministries and central authorities, there is a shortage of qualified public functionaries who speak foreign languages;
- Salaries and social guarantees granted to functionaries are low in continuation and majority of institutions do not have criteria to evaluate performances of functionaries and institutions;
- Reductions and sporadic reforms imposed by authorities halt the growing of skills of public functionaries, there is a short potential to execute difficult tasks;
- There are serious shortcomings in implementing the Electronic Moldova Strategy (especially Section II concerning E-Governance and Democracy);
- Ineffectiveness of institutions in charge with the rule of law and state security (MIA, CSAECC, SIS, and Prosecutor's Office): modest results compared with considerable public investments.

- **Priorities**

- Emergently promoting, introducing and ensuring mechanisms for an adequate implementation of new laws concerning public ranking and status of public functionary; central public administration; decision-making transparency; ministerial responsibility; conflicts of interests; the Code of Conduct for public functionaries, etc.
- Elaborating and applying a system to motivate and increase salaries of public functionaries accordingly to their skills, aptitudes and performance;
- Promoting the principle of depoliticising public functionaries, differentiation of career and political functionaries in legislation and practice;
- Continuing and developing international cooperation in the area;
- Considering the enforcement of a document (legal and institutional framework on human resources, technical and financial-control and re-evaluation issues, etc.), rather than the simple elaboration as a final result; respecting initial terms;
- Revising CPA reform indicators and establishing quantifiable, perceptible indicators;
- Hiring in public service on the basis of a public, transparent contest with a maximum dissemination of information about vacancies and requirements;
- Introducing by law and consolidating capacities of an independent central authority to coordinate, develop and intervene in the public service and ranking area;
- Implementing and respecting all regulations on elaboration of normative acts, policy documents, assessment of the regulatory impact, economic-financial argumentation of decisions and actions;
- Intensively training functionaries regarding IT, foreign languages, public management;
- Elaborating and applying a real system of selection, promotion and motivation of CPA functionaries, reservation of staff for vacancies;
- Establishing right priorities and adequately allocating resources for these priorities, avoiding inefficient, populist expenses; ensuring an adequate strategic planning;
- Essentially consolidating capacities of bodies in charge with European integration (MFAEI, specialised department of the ministry). Considering the opportunity to subordinate this structure to the Government directly;
- Ensuring a more serious participation of bodies in charge with European integration (MFAEI, specialised department of the ministry) in coordinating and implementing the CPA Reform);

- Attracting independent factors (NGOs, business, mass media) in implementing and monitoring the CPA Reform;
- Establishing and consolidating the relation between effectiveness of public institutions and contribution of taxpayers to building their budgets.

3.2 Local Public Administration (LPA) Reform

A special strategy on LPA Reform is not promoted in Moldova and LPA reforms have often been spontaneous and unplanned. However, the following reference documents could be mentioned: resolutions and recommendations by CoE, PACE and CLPRA, internal plans on their fulfilment (PD # 284-XVI from 11.11.2005) and the ruling programme¹³⁶ for 2005-2009.

According to international documents, a real autonomy of LPA shall be ensured in compliance with the European Chart on Local Self-Governance; the legislation shall be adjusted in terms of local funds; regional development and decentralisation shall be promoted; numerous criminal charges filed against LPA functionaries shall be settled; the legislation on status of the Chisinau municipality shall be resolved, etc.

As regards the public administration, the action programme of the Government stipulates actions to improve the LPA management system; to ensure an administrative and fiscal decentralisation; to organise local public services and trans-border cooperation; to establish the status of patrimony of administrative-territorial units; to develop a dialogue between the executive, LPA authorities and civil society; to promote the regional development policy, etc.

• Progress

- Key progresses related to the LPA Reform are the new laws on local public administration, regional development in Moldova, administrative decentralisation.
- Establishing of the Ministry of Local Public Administration might be seen as a progress, but the way it was created and its name have been contested from the very beginning with plausible arguments.¹³⁷ This ministry did not yet produce clear results, while its effectiveness and competence leave much to be desired¹³⁸;
- General local elections did not seriously affect the management of public affairs at local level; majority of localities have elected local public administration authorities, with 1st-level bodies being created legally and on time;
- Certain actions are taken to implement the law on regional development¹³⁹;
- A new draft law on local public funds is being elaborated.

• Shortcomings and problems

- Lack of a clear and adequately implemented strategy (concept) on LPA Reform;
- Frequent modification of legislation in the area (four new laws on LPA have been adopted in the past 12 years);

¹³⁶ Government's action programme for 2005-2009;

¹³⁷ Minutes of the parliamentary sitting from 16.02.2006;

¹³⁸ Moldovan President has convoked several sittings on performance of MLPA, demanding enhanced and optimised actions.

¹³⁹ MLPA has worked out the draft Government decision on actions for the implementation of the law and draft strategy on regional development, the group in charge with coordinating the implementation of development projects held sittings.

- Operational and financial dependence of local bodies of regional and central authorities; inequitable distribution of funds to local budgets, interested and unfair distribution of funds for local infrastructure and assistance projects;
- Lack of resources for adequate local development (underdeveloped rural economy, underdeveloped infrastructure);
- Low remuneration of local functionaries which does not correspond to their tasks; competences are delegated without simultaneous resources;
- The central government is differently treating LPA authorities, inclusively on the basis of political criteria;
- The formation of new local public administration budgets especially at district level was protracted and even sabotaged by PCRM representatives¹⁴⁰ and other political forces;
- Abusive political decisions by precedent local authorities were contested in law courts, which decided the reinstatement of functionaries and compensation of pecuniary and non-pecuniary damages for them from local budgets¹⁴¹;
- The administrative control is used as a lever of central influence on local authorities; LPA representatives accuse control and law bodies of obstructing their activity;
- The European integration issue is regarded with scepticism in LPA sector, adequate institutional and human resources are not provided (special subdivisions adequately endowed with capable functionaries and resources).
- The law on administrative decentralisation is not applied (Article 16 of the law is not executed); the enforcement of the law on regional development was very late (regulations, structure of the regional development agency should be approved in the first two months after enforcement);
- LPA authorities do not have a real and full autonomy to manage human resources. Being financed from the central budget, they are limited in employing matters;
- Essential differences regarding utilisation of information technologies in central and LPA institutions;
- The lack of adequate funds is a first cause which obstructs the implementation of the e-government programme;
- Local public administrations face difficulties to apply and accede to European funds because of stagnation of decentralisation and modernisation processes concerning them.

- **Priorities**

- Central authorities shall definitively stop treating LPA representatives differently (on political criteria);
- Amplifying the decentralisation process;
- Implementing the laws on regional development in Moldova and administrative decentralisation;
- Fortifying the financial autonomy of local public authorities, improving the legal framework on local public funds;
- Adopting and enforcing the new law on status of the Chisinau municipality;
- Developing strategic planning capacities of LPA authorities;
- Granting wider possibilities in the human resource management area;
- Introducing an institutional mechanism to permanently consult local democracy and governance aspects;

¹⁴⁰ Statement by OMA faction submitted to the Parliament, 29.06.2007 (www.parlament.md);

¹⁴¹ Several functionaries of the Chisinau Municipal Council have been reinstated (V. Martiniuc, V. Nemerenco, M. Furtuna, V. Sarban, V. Modirca, Gh. Raileanu, and others had earlier been reinstated);

- Stimulating cooperation of LPA representatives within Euroregions and trans-border projects;
- Organising permanent, systemic training of functionaries and local elected officials at all levels.

3.3 Depoliticising. Transparency. Anti-corruption fight

The anti-corruption fight is the focus of central authorities of different rankings, but this issue is often tackled within a narrow frame, without approaching related problems such as depoliticising, transparency, probity.

In order to combat corruption and implement related reforms, the Republic of Moldova has got a great international support from community institutions and funds administrated by distinct countries or institutions.¹⁴²

The national anti-corruption strategy and action plan on implementation of the strategy (PD # 421-XV from 16.12.2004) is the key document indicated by EUMAP. The implementation of this document in three years has brought certain progress, but the perception of corruption by society did not improve much, with people and social groups keeping approximately the same attitude towards this scourge and efforts of authorities to combat it. Even more, certain internal and local ratings signal a higher corruption rate in central institutions and among high-ranking functionaries, as well as lower effects of authorities' efforts.¹⁴³

Besides the national anti-corruption strategy, the following documents have been enforced in 2007: the National Plan on implementation of the Moldova-NATO Individual Partnership Action Plan (IPAP) for 2006-2009 (GD # 1506/29.12.2006); the action plan on implementation of the Preliminary Country Plan of Moldova within the US Millennium Challenge Account (GD # 32/11.01.2007); the action plan on implementation of the joint programme between the European Commission and Council of Europe on increased independence, transparency and efficiency of the justice system in Moldova for 2006-2009 (GD # 959/22.08.2007); the action plan on respect for the right to petition, information and access to the justice (GD # 1013/12.09.2007); the strategy on strengthening of the judicial system and the action plan on implementation of the strategy (PD # 174/19.07.2007). These programmatic documents stipulate actions to prevent and combat corruption, with some of them being similar or even identical and involving risks and deficiencies:

- Doubling of efforts;
- Parallelism;
- Unclear responsibility;
- Wasted resources;
- Difficulties to establish indicators, monitor, study and assess the impact.

New laws have been adopted but there is little information regarding the application of legislation (enforcement of new laws, institutional, organisational-administrative actions, adoption of normative acts on concrete enforcement, permanent updating, and assessment of impact). No clear

¹⁴² The European Commission and SIDA have decided to allocate 3.5 million euros (MOLICO-Moldova project); about 30 million dollars are expected via the Preliminary Country Plan within the US Millennium Challenge Account to enhance transparency and combat corruption;

¹⁴³ Moldova's rating in the Corruption Perception Index 2007 has declined; the thematic survey Molico IMAS 2007 signals a higher corruption rate for several central institutions, with the highest corruption perception being observed among high-ranking functionaries; the periodical survey Barometer of Public Opinion reveals that people are more concerned with corruption and they are less content with Government's efforts in this area; the rating of Moldova in the Global Corruption Index (TI), the Governance Quality Index (WB) did not improve much;

impact of the enforcement of new legal and normative acts is observed, the simple elaboration or delivery of drafts for examination and adoption by some institutions such as Government or Parliament did not have any impact, unpublished and unexecuted laws are inexistent laws with a null effect).

Political will is not proved when important laws are late: there is a ruling parliamentary majority in Moldova and certain necessary and recommended regulations may be easily adopted should authorities assume political responsibilities and consequences.

- **Progress**

- Increased international assistance;
- Transparency of governance is on the rise thanks to important decisions made previously or promoted meantime; the Parliament keeps being the most transparent institution in terms of examination and approval of draft documents, which are published on website and made available to those interested to raise recommendations and objections (the effect of the concept on cooperation between Parliament and civil society);
- The anti-corruption fight keeps being a declared priority and there are reactions in this area;
- Recommendations by international institutions (GRECO, SPAI, and others) are being fulfilled;
- Anti-corruption mechanisms are being elaborated and introduced, in particular, the corruptibility survey for draft legislative acts; institutional corruption risks are being assessed (a methodology in the area has been elaborated); elaboration of analytical studies on diverse areas (education, healthcare, LPA, declaration of incomes and estate, mortgage, etc.); organisation of anti-corruption educative actions (in education, central and local public institutions); opening of “confidence” hotlines in majority of central institutions;
- Development of civic partnership (enlargement of the Anti-Corruption Alliance and cooperation with this alliance, joint projects with specialised NGOs);
- Relevant legal acts on this area have been adopted¹⁴⁴;
- Relevant draft legal and normative acts on this area have been elaborated, but their enforcement is late;
- The rate of corruption-related offences revealed by law enforcement bodies in charge with combating corruption has increased.¹⁴⁵

- **Shortcomings and problems**

- Independence of public functionaries from *political influence* has declined¹⁴⁶; the reformation and consolidation of administrative capacities are stagnating because of politicising, protection of incapable, unprofessional functionaries who have a political coverage¹⁴⁷;

¹⁴⁴ Law # 165/2007; Law # 170/2007; Law # 177/2007; Law # 190/2007;

¹⁴⁵ As many as 1,366 corruption-related offences have been disclosed in 11 months of 2007 (compared with 1,297 offences in the similar period of 2006 and 1,351 offences in January-November 2005);

¹⁴⁶ World Bank Report „Worldwide Governance Effectiveness 2006”, Section III „Government Effectiveness”, www.govindicators.org; www.worldbank.org; Freedom House Report „Nations in Transit 2007”;

¹⁴⁷ See the interview with Valeriu Lazar published by Analitique, 08.09.2007;

- The ruling party considers that it shall “increase the control on state central and local authorities”¹⁴⁸; central, regional and local authorities have influenced competitors at elections, making them withdraw from the electoral race or join to PCRM candidates¹⁴⁹; representatives of central authorities admit a disrespectful and differentiated treatment towards local elected officials representing the opposition and even towards electors¹⁵⁰;
- Specialised central bodies of CPA do not include public functions to ensure the functioning of the mechanism of delimitation of political and administrative offices¹⁵¹;
- Independent surveys¹⁵² signal major problems concerning parliamentary staff, including aspects related to impartiality and apolitical leadership, while amendments to the Parliament’s Regulation (Law # 430-XVI from 27.12.2006) did not prevent and limit possibilities to employ functionaries on the basis of political criteria;
- *Transparency* of public authorities has decreased: the live broadcasting of parliamentary sittings has been ceased¹⁵³; draft Government decisions are not entirely published and publicly discussed; the law on decision-making transparency is blocked without formal reasons; with some exceptions (MFAEI, Prosecutor-General’s Office, MJ, MEC, MID), majority of websites of public institutions do not correspond to transparency, adequate, operative and prompt public information criteria¹⁵⁴; law courts are least transparent in Internet, efforts in the area did not produce clear progresses so far¹⁵⁵;
- Subjects concerned by legislation do not know it enough because of low accessibility of official legislation, expensive databases and Monitorul Oficial¹⁵⁶;
- New laws concerning anti-corruption fight, declaration of incomes and estate, conflict of interests were not adopted yet; the law concerning public control on public institutions was not elaborated¹⁵⁷; the law on access to information is imperfectly applied in continuation¹⁵⁸;
- Surveys indicate the *corruption* as part of most serious problems of the country, with public institutions being regarded as very corrupt;
- Assessments by community and international institutions signal the necessity to increase efforts against corruption, particularly against “big corruption”¹⁵⁹;

¹⁴⁸ Decision by the 11th plenary sitting of the PCRM CC from 07.07.2007 (Point 7);

¹⁴⁹ Monitoring reports by OSCE/ODIHR, international and national observers (Coalition 2007); statements by opposition parliamentary parties;

¹⁵⁰ Speeches delivered by Deputies Iu. Rosca and S.Urechean at the parliamentary sitting on 27.07.2007; Statements delivered by Moldovan President during a TV programme aired by NIT (20.07.2007); Statements delivered by Moldovan President at a news conference on 25.07.2007; the 23.07.2007 issue of „Timpul” newspaper; Interpellation submitted by Deputy Gh. Susarenco at the parliamentary sitting from 12.07.2007 concerning elections for the mayoralty of Larga village, Briceni district;

¹⁵¹ The plan on implementation of the CPA reform strategy establishes this priority;

¹⁵² Study „Functional analysis of Moldovan Parliament administration” by UNDP-Moldova experts, see <http://www.parlament.md/download/studies>; www.undp.md;

¹⁵³ Although the law does not introduce interdictions, „TeleRadio-Moldova” Company has stopped broadcasting live plenary sittings of the Parliament without any explanation and beforehand notification, thus depriving people of direct and unbiased information about parliamentary debates. The parliamentary leadership has unreasonably obstructed independent media outlets (radio channel „Vocea Basarabiei”) to take over the broadcasting.

¹⁵⁴ Websites do not correspond to the GD # 668/2006 and standard requirements on official websites of public administration authorities (Order # 46/33 by MID from 17.04.2007);

¹⁵⁵ Websites of SCJ and SCM are not updated operatively, they do not provide exhaustive information about previous decisions and those which are being examined; courts of appeal and law courts do not have websites;

¹⁵⁶ MO is not concomitantly published and electronically updated for a free online access, while the printed version is quite expensive;

¹⁵⁷ Point 14 of the action plan on implementation of the „Electronic Moldova” Strategy (GD 255/09.03.2005);

¹⁵⁸ Publications and reports by “Acces Info” Centre, www.acces-info.org.md; orders on ensuring access to information given by high-ranking dignitaries are formal, they are not executed and nobody is punished;

¹⁵⁹ ENP progress report on Moldova, 04.12.2006; Press release by the European Parliament, Luxembourg, 19.06. 2007, 11009/07 (Presse 143); „Investment Reform Index” by OECD; Moldova is ranked the 88th place among 101 countries

- No real detention terms and confiscation of estate were registered in 2007, while the interdiction to run functions is not often applied; investigated cases have a low quality, many cases are annulled or rejected on non-qualitative evidence reasons; law enforcement bodies participating in the anti-corruption fight commit abuses; actions aimed to prevent and combat corruption face problems and shortcomings¹⁶⁰;
- Almost same violations and shortcomings are observed in management of public patrimony and funds¹⁶¹;
- There are abuses and fraudulent schemes in managing public funds for social-cultural and propagandistic projects.¹⁶² Although they have been publicly signalled and law courts have been notified, these cases did not have serious consequences on responsible functionaries;
- Some cases that had been earlier filed on corruption-related charges have not been clearly investigated, the information is not made public and this fuels opinions about selective anti-corruption fight; failure of some criminal cases and decisions by international courts confirmed the violation of the law on institution and investigation of penal cases, as well as their political trace¹⁶³;
- Procedure of declaration and control on incomes and estate of dignitaries and public functionaries is imperfect so far¹⁶⁴;
- The legal framework against money laundering was very late after the new law was adopted; there are very little cases filed on money laundering charges; relations between big corruption, organised crime and money laundering are not investigated adequately¹⁶⁵;
- The adoption and enforcement of the law on financing of parties and electoral campaigns were very late. The law does not set up clear and sufficient mechanisms regarding control on illicit financing, prevention and combat of corruption;
- The role of SIS and MIA in preventing and combating corruption is very low; the activity of CSAECC shall be optimised.

• Priorities

- Maintaining and extending international cooperation in the area;
- Enhancing transparency of CPA and LPA authorities, building viable mechanisms for the participation of citizens and civic groups in the decision-making process¹⁶⁶;
- Implementing on time the earlier approved plans; establishing more concrete terms;
- Improving information on internal work of the Parliament: publishing on website reports by commissions regarding examined drafts, accepted and recommended amendments to drafts; rejected laws along with the argumentation from relegation letter;

covered by the Corruption Perception Index by Gallup organisation, www.galluppoll.com; „Investment Reform Index” by OECD; Statements by EU Special Representative Kalman Mizsei, 02.10.2007, „Punct si de la capat” programme;

¹⁶⁰ Speech delivered by Moldovan prime minister at the sitting of the CSAECC Collegial Council on 12.01.2007;

¹⁶¹ Report by the Chamber of Auditors concerning management of public funds and property in 2006, presented at the plenary sitting of the Parliament on 13.07.2007;

¹⁶² Statements by former director-general of the Agency for Constructions and Territorial Development, Interview with Igor Semenovker published by „Nezavisimaya Moldova” on 14.02.2007;

¹⁶³ Cases filed against Chisinau City Hall functionaries (Urechean, Sarban, Modirca, Railean), Pasat case; ECHR decisions on Sarban, Paladi, Modirca, Gorea, Musuc cases;

¹⁶⁴ The way information from declarations on incomes and estate of dignitaries has been presented and released confused the public opinion and challenged negative reactions by society. Such information was not released in general in 2007;

¹⁶⁵ GD # 1519/2007;

¹⁶⁶ National Anti-Corruption Report 2006;

- Implementing internal administrative control mechanisms, ethic norms within CPA and LPA authorities and preventing conflicts of interests;
- Setting up funds to reward people who declare corruption or help discovering corruption;
- Holding legal and administrative advisory campaigns via “confidence” hotlines;
- Developing cooperation with the media, reacting promptly to publications about corruption;
- Intensifying the documentation of “big corruption” (clearly defining this kind of corrupt actions);
- Improving and adequately implementing legal norms on state protection of victims, witnesses and other persons providing help in criminal corruption cases¹⁶⁷;
- Optimising the implementation of the law concerning declaration and control on incomes and estate of state dignitaries, judges, prosecutors, public functionaries and officials by elaborating a real mechanism to apply the law and ensuring an effective control on declarations;
- Including detailed provisions on declarations of incomes and estate by candidates in the Election Code;
- Permanently informing population about evolution of important cases filed on corruption charges;
- Respecting the innocence presumption principle to make public criminal cases based on corruption charges, etc.

4. Transnistrian conflict

The settlement of the Transnistrian conflict is a priority on agenda of EU-Moldova relations. The unsettled conflict poses a series of *hard* and *soft* risks against European security, which emerge from the lack of a constitutional regime in the region, proliferation of illicit activities and stationing of a large contingent of Russian troops and munitions without the consent and supervision of the Republic of Moldova and contrary to international commitments by the Russian Federation. These risks have become prominent once Romania joined the European Union on January 1, 2007, as this brought the conflict zone closer to the EU border. Even more, the “frozen” conflict and the lack of a *de facto* control by Moldova on the eastern region of the Dniester is a major obstacle for political and socio-economic development of Moldova, and thus for the fulfilment of objectives of the European Neighbourhood Policy on Moldova.

Efforts to find a viable solution to the Transnistrian problem are a priority of EUMAP, with its preamble indicating a “shared responsibility” in settling and preventing conflicts. The Action Plan contains a series of provisions aimed at consolidating the EU contribution to settlement efforts, being an innovation of EUMAP compared with PCA in terms of consolidation of political and security dialogue between EU and Moldova. Actions stipulated by EUMAP aim at a more active EU participation in the proper political negotiations on Transnistrian conflict on one hand and to modify the context of this conflict and build a more favourable framework to find and implement an eventual political solution on the other hand.

Key progresses in settling the Transnistrian conflict in the EUMAP context will be summarised and the way the Europeanisation of Transnistrian settlement efforts contributed in fact to advancing the

¹⁶⁷ Law # 1458/1998 or adoption of a new law;

settlement process will be examined below.¹⁶⁸ After this analysis, a series of considerations will be made concerning priority areas of action for EU and Moldovan authorities in the Transnistrian settlement process for the nearest future, given the existing experience and present approaches by EU regarding “frozen” conflicts in the former Soviet region.

4.1 Transnistria settlement in EUMAP context

4.1.1 Moldova’s participation in political negotiation process under OSCE aegis

Throughout the implementation of EUMAP the political Transnistrian settlement negotiation process was mostly blocked, except for several negotiation rounds in October 2005 – March 2006. Mediators and observers of the Transnistrian problem have held several negotiation rounds and invited the parties to resume the negotiation process. They failed because of intransigence of the Transnistrian side and its conditions that the Moldovan party did not accept, but the Russian Federation has often supported them.

The Transnistrian problem besides other frozen conflicts has been a priority on agendas of Slovenian, Belgian and Spanish OSCE Chairmanships, as well as on agenda of the OSCE Ministerial Meetings. The lack of progress in withdrawing Russian troops and munitions from the Transnistrian region was a cause why OSCE Ministerial Meetings could not adopt final declarations five years in a row.

As the „5+2”¹⁶⁹ negotiations have been blocked, Moldovan authorities took actions to relieve the situation and find alternative solutions. Three key initiatives by Chisinau may be mentioned here:

- a) The Moldovan Parliament adopted the declaration on initiatives by Ukrainian President Viktor Yushchenko and two appeals on democratisation criteria, principles and conditions of demilitarisation of the Transnistrian region of the Republic of Moldova on June 10, 2005, and the law on basic principles of the special legal status of eastern districts of the Republic of Moldova (Transnistria) on July 22, 2005. These documents have been adopted in the context of the April 2005 initiatives by Ukrainian President Viktor Yushchenko and established a set of principles and standards of settlement of the Transnistrian conflict in conditions of an unprecedented parliamentary consensus on this issue. At the same time, the four documents have been rather declarative, containing a number of impossible provisions and it is hard to assess their impact so far.
- b) The August 2006 dialogue between Moldovan authorities and Russian Federation regarding a “package of initiatives” by Moldova. In spite of intensive consultations inclusively at level of heads of state and optimism of the Moldovan side regarding an imminent agreement with Russia, there is no indicator of any tangible result of this dialogue. On the contrary, Russia is going on with providing an open political and financial support to the Transnistrian region and ignores Moldova’s stance on matters linked to this region.¹⁷⁰ Moldova’s western partners described Chisinau’s efforts to reach a compromise with the Russian Federation, the main player in the settlement process, as plausible. At the same time, the lack of

¹⁶⁸ „Europeanisation” in the field of secessionist conflicts is defined as „a process which is activated and encouraged by the European Union, by linking the final outcome of the conflict to a certain degree of integration of the parties involved in it into European structures” (See „Europeanisation and secessionist conflicts”, G. Noutcheva, N. Tocci, B. Coppieters, T. Kovziridze, M. Emerson, M. Huyseune, 2004);

¹⁶⁹ The first round of Transnistrian settlement negotiations during the implementation of EUMAP took place on October 27-28, 2005 with the participation of the Moldovan and Transnistrian sides, mediators on behalf of the OSCE, Russia and Ukraine, as well as observers on behalf of the US and EU;

¹⁷⁰ For example, the Russian Federation opened 24 polling stations in the Transnistrian region for the December 2, 2007 parliamentary elections without the consent of Chisinau;

transparency of the Chisinau-Moscow dialogue and its focus on a parallel dimension of the „5+2” format raised the concern of western partners of Moldova and affected the credibility of Moldova.

- c) Confidence and security consolidation initiatives launched by President Vladimir Voronin in autumn 2007. Many observers have described these initiatives as a kind of Plan B, since talks with Russia did not produce the expected results. Transnistria settlement mediators and observers, as well as certain segments of the Tiraspol administration have welcomed the presidential initiatives, appreciating them for the positive message sent to people from the Transnistrian region. The proposed actions envisage joint projects on infrastructure, social and humanitarian assistance and economic cooperation, disarmament and demilitarisation of all Moldova. Even more, the presidential initiatives aim at recognising the property rights in the region, inclusively on farm land. But Tiraspol did not reply to these proposals, with good intentions of Chisinau being somehow shadowed by initiatives aimed to prohibit the circulation of motor vehicles with Transnistrian number plates outside Moldova starting January 2008 and inside Moldova starting January 2009.

4.1.2 EU-Moldova political dialogue and cooperation

Two key progresses shall be mentioned here: the appointment of the EU Special Representative to Moldova and the EU accession to the negotiation format as observer.

On March 16, 2005, the EU Council nominated Adriaan Jacobivits de Szege as EU Special Representative (EUSR) to Moldova. After his mandate ended in February 2007, Kalman Mizsei took over the EUSR office on February 15, 2007. The EUSR mandate for Moldova addresses, in particular, the EU contribution to a peaceful settlement of the Transnistrian conflict, as well as contribution to strengthening democratic institutions, rule of law and respect for human rights and fundamental freedoms, promotion of good relations between EU and Moldova on the basis of common values and interests, combat of trafficking in human beings, etc.

Activating under the aegis of the EU High Representative for Common Foreign and Security Policy, Javier Solana, the two EU special representatives to Moldova have fully justified the characterisation of “face” and “voice” of the EU in Moldova given by EUSR. Both of them have intensively worked in Brussels, Moldova, as well as in capitals of some EU member states and other third countries to support Transnistrian settlement efforts. EU special representatives have often visited Moldova including the Transnistrian region and established enlarged contacts and confidence-based relations with official structures and civil society organisations and businesses, helping the EU to understand and know better diverse aspects of the Transnistrian conflict and factors favouring and obstructing the settlement.

The accession of the EU besides US as observers to the political negotiation format in September 2005 has substantially helped strengthening the role of EUSR. Although negotiations are blocked since March 2006 and the EU is playing the role of observer only, the formalisation of the EU presence in the negotiation format has increased much the presence and visibility of the EU in settlement efforts. By becoming a direct participant in the negotiation process, the EU has become a player which is much more interested in finding a solution, while the direct participation in this process has opened the EU access to internal information. Thus, the EU has now a true image about negotiations and possibilities to influence the situation.

The Transnistrian problem has always been on the agenda of sittings of EU-Moldova cooperation institutions. A special attention was paid to the Transnistrian problem at the June 19, 2007 sitting of the EU-Moldova Cooperation Council, at which the object of intense Moldovan-Russian

consultations – the “package of Moldovan proposals” on Transnistrian conflict was widely discussed by European officials and Moldovan delegation led by President Vladimir Voronin himself. On that occasion, EU high-ranking officials invited the Moldovan side to assure that any final solution to the Transnistrian problem is adopted in the „5+2” format, which is the single mechanism to discuss identified solutions.

Also, it is worth to note the dialogue on the Transnistrian problem held as part of works by the EU-Moldova Parliamentary Cooperation Committee, which encouraged the European Parliament to adopt resolutions on the Transnistrian conflict.¹⁷¹ Although the European Parliament has a limited role in formulating and applying EU foreign policies, its resolutions had a great role to raise the awareness of member states over situation in the Transnistrian region and its importance in implementing ENP objectives on Moldova.

In addition, the EU has maintained the travel restriction on 17 Transnistrian leaders throughout the implementation of EUMAP. EU candidate states, member states of the Stabilisation and Association Process, EFTA and EEA, as well as the United States have joined this restriction. The EU introduced the travel restriction for the first time in 2003, as leaders of the self-proclaimed republic obstructed the Transnistrian settlement process.

4.1.3 EU diplomatic and political support

Besides the constant EU-Moldova dialogue on Transnistrian conflict, the EU has provided diplomatic and political support to Transnistrian settlement efforts within its political and security dialogue with third countries (Russia, Ukraine), within pan-European and international forums (OSCE, Council of Europe, NATO, United Nations), as well as via statements and attitudes by diverse EU institutions concerning evolutions in Transnistrian settlement process. EU actions in this direction have multiplied during the implementation of EUMAP, as the EU participation in settlement efforts has grown.

The EU-Ukraine dialogue had the greatest impact in terms of political and diplomatic support, as it has resulted into the EU Border Assistance Mission to Moldova and Ukraine and respect by Ukrainian authorities for the single customs regime at the Moldovan-Ukrainian border, accordingly to the December 30, 2005 Joint Declaration, two key progresses registered in the period concerned which had the greatest impact on the Transnistrian settlement context.

Ukraine’s role in achieving this progress was outlined at the September 14, 2007 EU-Ukraine Summit in Kiev, with EU and Ukrainian high-ranking officials reiterating the commitment to continue cooperating in order to find a lasting, comprehensive and fair solution to the Transnistrian conflict. At the same time, Ukraine’s potential to contribute to Transnistrian settlement efforts is not fully used. For example, it has refused to join the EU travel restriction on Transnistrian leaders. Further conditioning the EU relations with Ukraine with the contribution of the latter to the settlement of the Transnistrian conflict will make Ukraine be more cooperative in this respect. The EU has held a constant dialogue with Russia concerning the Transnistrian problem besides other “frozen” conflicts in the former Soviet Union, which are the object of the EU-Russia security area. This dialogue has intensified when Chisinau was discussing with Moscow the “package of Moldovan proposals” on the Transnistrian problem. In order to understand better the situation and to prevent the signing of an agreement without the consultation of other mediators and observers,

¹⁷¹ European Parliament Resolution on violation of human rights in Moldova, July 12, 2007; European Parliament Resolution on Moldova (Transnistria), 26 October 2006; European Parliament Resolution concerning human rights in Moldova in general and Transnistria in particular, 16 March 2006, www.europarl.europa.eu;

the High Representative for Common Foreign and Security Policy, Javier Solana, discussed the Transnistrian problem with Russian Foreign Minister Sergey Lavrov while the latter was on a visit to Luxembourg on April 23, 2007, and EU Special Representative to Moldova Kalman Mizsei tackled the “package of Moldovan proposals” during a working visit to Moscow in the same period.

Unfortunately, the EU did not use all its influence on Russia to relieve the Transnistrian settlement negotiation process because of prevalence of other important issues on the agenda of the EU-Russia dialogue, problems in the EU-Russia relations, as well as increasingly intransigent foreign policy of Russia.

The EU continued to reiterate the necessity of finding a viable and unconditional solution to the Transnistrian conflict as soon as possible, with respect for Moldova’s territorial integrity and sovereignty, at OSCE Ministerial Meetings, sittings of the OSCE Permanent Council, sittings of the Committee of Ministers of the Council of Europe, as well as within other pan-European and international forums. For example, the EU has constantly supported the unconditional honouring of the ECHR Decision on „Ilascu and others versus Republic of Moldova and Russian Federation”, with EU Presidencies releasing statements in this respect at sittings of the CoE Council of Ministers.

Statements on diverse evolutions linked to the Transnistrian problem such as the declaration by the Finnish Presidency concerning the so-called September 17, 2006 Transnistrian referendum, which says that the EU recognises neither the referendum nor its results, were also very important.

4.1.4 Russia’s Istanbul commitments

The necessity of completely and immediately honouring by Russia the commitments assumed at the 1999 Istanbul OSCE Ministerial Meeting was constantly underlined by representatives of EU institutions. Five consecutive OSCE Ministerial Meetings could not adopt a final declaration, as Russia did not agree with the conditioning by NATO member states of the ratification of the Adapted Conventional Forces in Europe Treaty with the complete withdrawal of Russian troops and munitions from Moldova and Georgia. Both EU Presidencies and individual member states joined this standpoint, invoking arguments by Georgia and Moldova.

Moldovan authorities have demanded more than once the withdrawal of Russian troops and munitions from the Transnistrian region, in compliance with Russia’s 1999 commitments. It is worth to note a speech that Moldovan Minister of Foreign Affairs and European Integration Andrei Stratan delivered at the September 26, 2006 UN General Assembly, urging the Russian Federation to accelerate the process of withdrawal of its troops and munitions from the Transnistrian region and to allow an international inspection to its ammunition depots from the region.

In this context, the Moldovan side has repeatedly raised concern with inefficiency of the present peacekeeping mechanism and called for its transformation into a multinational civil observance mission. The EU did not release an official statement on transformation of the present peacekeeping mechanism from the Transnistrian region or an eventual participation of EU member states in this mechanism, with EU officials stating that such talks could be held only when it will be clear the mandate of the planned mission and the stage of the settlement process at which it could be held (conflict, post-conflict, etc.).

4.1.5 Border security

Greatest progresses have been made in this area, while the participation and support of the EU have produced the most tangible results which have substantially modified the current *status quo*. The EU Border Assistance Mission to Ukraine and Moldova is regarded as a model of EU intervention into conflicting situations, as well as a model of efficient cooperation between diverse EU institutions in settling crises, an efficient conjugation of foreign and security policy and technical assistance.

The mission is a response to a June 2, 2005 joint letter by Moldovan and Ukrainian Presidents Vladimir Voronin and Viktor Yushchenko, who sought the EU support to strengthen the border management capacity and set up an “international customs control” at the Moldovan-Ukrainian border. The EU Border Assistance Mission to Ukraine and Moldova was set on November 30, 2005, after the Memorandum of Understanding between EU, Ukraine and Moldova was signed on October 7, 2005.

The Mission was initially set for a two-year term, with a budget of about 20 million euros and a contingent of approximately 50 European customs and border police experts. Following a successful work of the Mission, its mandate was extended with two years until November 2009 and the EUBAM contingent was extended up to over 200 experts, with 129 of them being experts from border services of EU Member States.

The Mission is also participating in management of the European Commission Project BOMMOLUK (Improving management on the Moldovan-Ukrainian State Border) aimed at procurement of equipment, development of risk analysis capacity and development of a joint training course for staff at the jointly operated border crossing points.

The Mission has helped much to reduce smuggling at the Moldova-Ukraine border, boost the risk and border security analysis capacity, and consolidate cooperation between competent bodies of Moldova and Ukraine and between these services and competent European bodies.

It is important that the Mission has contributed to the introduction and functioning of the single customs regime established by Moldova and Ukraine at the Moldovan-Ukrainian border starting March 3, 2006. It was established after Moldovan and Ukrainian premiers signed the December 30, 2005 Joint Declaration on unification of customs procedures at the Moldova-Ukraine border, including the Transnistrian section. According to the unified customs regime, only merchandise accompanied by official customs documents of Moldova can cross the Moldovan-Ukrainian border, and this required the registration of Transnistrian economic agents with competent authorities of Moldova. Moldovan authorities have introduced simplified procedures for the temporary registration of Transnistrian economic agents with the State Certification Chamber of Moldova and reimbursement of customs duties to them. The Mission has contributed to legalisation of trade activities of Transnistrian economic agents, providing them with neutral advisory and support to comply with requirements of Moldovan authorities in order to get registered and get access to European trade preferences. According to data of the Ministry of Reintegration, more than 370 Transnistria-based economic agents have been temporarily or permanently certified in Chisinau and their trade operations in EU have developed much. Getting access by Transnistrian economic agents to European trade preferences awarded to Moldova is a good example of enhanced attractiveness of the EU in the Transnistrian region.

4.1.6 Civil society and democracy promotion

Democratisation of the Transnistrian region and actions aimed to consolidate confidence at level of civil society organisations are two conditions needed to find and apply a democratic solution to the Transnistrian conflict. The “settlement through democratisation” was the generic of the April 2005 initiatives by Ukrainian President Viktor Yushchenko, developed later in the June 10, 2005 Appeal by Moldovan Parliament concerning criteria of democratisation of the Transnistrian region.

Unfortunately, the democratisation of the Transnistrian region was a much more difficult desideratum to be implemented, with statements prevailing on concrete ongoing or possible actions. In particular, this was effective for the EU, which supports with much enthusiasm at level of statements the activities aimed to develop civil society in the Transnistrian region and cooperation between civil society organisations from both banks of the Dniester, but it hesitates to launch concrete initiatives or community projects in the field.

The initiative was taken over by a number of EU member states, which have implemented and are implementing peacekeeping projects within bilateral assistance provided to Moldova. It is worth to mention the project “Building a peaceful relation framework in the Republic of Moldova” administrated by the Department for International Development (DFID) of the United Kingdom, an initiative aimed to consolidate capacities of civil society organisations and mass media from the Transnistrian region and contacts between them and their fellows from the right bank of the Dniester. These initiatives, as well as many other seminars and roundtables organised by civil society structures have achieved success and progress, demonstrating a confidence strengthening potential of such actions.

Also, it is worth to mention the constant dialogue between Moldovan authorities, in particular, the Ministry of Reintegration and civil society representatives on diverse aspects of the Transnistrian conflict, as well as their receptiveness to invitations to participate in various actions organised by civil society. This is a mutually advantageous dialogue – it provides authorities with the chance to discuss advantages and disadvantages of policy options with independent experts; this is an opportunity for civil society representatives to understand better governmental policies and reasoning behind them. In this context, the negative reaction of the Ministry of Reintegration to the June 2007 “Open letter for a European settlement of the Transnistrian conflict”, in which representatives of Moldovan civil society raised concern with the lack of transparency of Moldovan-Russian negotiations and asked Moldovan authorities to align their appeals on Transnistrian problem to Moldova’s European integration objective, has raised query.

4.2 Priorities

The participation and interest of EU regarding the Transnistrian problem have grown much during implementation of EUMAP, with the EU demonstrating its capacity of being an honest broker of Moldova interested in finding a viable and lasting solution to the Transnistrian conflict in the context of Moldova’s European integration efforts. EU was an external impetus for the settlement, while actions held under the EU aegis contributed to the modification of the existing *status quo* and influence strategies and interests of main players in the process. Thus, if analysing the EUMAP provisions on Transnistrian settlement, one may assess that they have been implemented at a great extent. The problem is that these provisions do not develop all EU potential on this issue, but rather cover a commitment which corresponds to the present EU-Moldova relationship. Thus, one may suppose that the more the EU-Moldova relations develop in all areas of cooperation, the more the EU may take actions concerning the Transnistrian problem.

EUMAP provisions and the current EU-Moldova cooperation framework have created premises for the Europeanisation of settlement efforts, but finally it will be up to Moldovan authorities to use all Europeanisation premises. Moldova has worked hard for the Transnistrian settlement in the context of relevant EUMAP provisions. So far, Moldova is due to prove its capacity of being an honest, trustworthy and calculable broker for the EU. Also, additional efforts are required to honour commitments on other areas such as democratic reforms, especially in terms of democratisation of the Transnistrian region.

The December 2007 European Commission Communication *A Strong European Neighbourhood Policy* calls upon EU to consolidate its efforts aimed to settle conflicts in neighbourhood. In particular, the Communication recommends the deployment of all available tools, whether first, second or third pillar, which would increase EU influence and avoid the limitations of short-term crisis management; promotion of similar reforms on both sides of the boundary lines, to foster convergence between political, economic and legal systems ; enabling greater social inclusion and contributing to confidence building.

The same Communication recommends a roll-over of the EUMAP for one year, with no change in substance. Therefore, it seems that the current EUMAP provisions on Transnistrian problem will be implemented in continuation until February 2009. Thus, one may note a consolidation of EU contribution in existing areas rather than a substantial enlargement of its contribution in new fields. The following areas of priority actions are recommended for the next period in the context of Europeanisation of Transnistrian settlement efforts.

For EU:

- Continuing the dialogue with Russia concerning the Transnistrian problem. Russia keeps being the strongest player in the settlement process and, though there are little perspectives to influence Russia, the EU shall maintain the Transnistrian problem on the agenda of its relations with Russia, using all available foreign and security policy tools, including insisting on the immediate withdrawal of Russian troops and munitions from Moldova.
- Conditioning in continuation progresses in relations with Ukraine with unconditional cooperation of the latter in the Transnistrian settlement process. For example, Ukraine shall take practical actions aimed at securing the border and join the travel restriction on Transnistrian leaders, etc.
- Including the EU in talks on transformation of the peacekeeping mechanism in Transnistria. The EU has the expertise needed to participate in such talks, given the experience of the 16 missions held under the aegis of the European Security and Defence Policy, as well as the capacity of effectively participating in a new peacekeeping format.
- Ensuring a wider EU involvement in the Transnistrian region. So far, majority of ENP-based activities took place on the right bank of the Dniester. As the left bank of the Dniester continues to be under Russia's influence, differences between the right pro-Europe bank and the left pro-Russia bank are on the rise, exacerbating existing divisions. An eventual direct participation of the Transnistrian region in ENP activities for Moldova would serve the conflict settlement objectives, as it would help the unrecognised region to move to the same direction of European norms and standards.¹⁷² The way Transnistria-based economic agents benefit by trade preferences granted to Moldova within ENP is an eloquent example of the way the EU may increase its visibility and attractiveness in the region. Transnistria could

¹⁷² Michael Emerson, Gergana Noutcheva, Nicu Popescu, „European Neighbourhood Policy Two Years on: Time indeed for an ‚ENP Plus‘”, CEPS Policy Brief no.126, March 2007;

participate in direct projects with EU in fields such as education, culture, civil society, rural development, infrastructure development, regional cooperation, human contacts, etc. Russia's irritation would be the imminent risk of such a direct EU presence in Transnistria, but EU could focus this cooperation within regional cooperation frameworks such as the Black Sea Synergy.

- Besides concrete actions EU could take in Transnistria, a distinct activity would be to inform citizens from the left bank about European structures, ENP, existing opportunities for diverse social groups from the region. This activity could be achieved by opening European information centres after the model of similar centres operating on the right bank of the Dniester.

For Moldova¹⁷³:

- Coordinating all actions and operatively informing European partners regarding all actions. Non-transparent consultations between Moldova and Russia in August 2006 raised serious concerns of EU and affected Moldova's credibility. Such situations shall be avoided in future if Moldova wants more EU support in this area.
- Strengthening capacities of formulation, application and assessment of Transnistrian settlement policies, elaborating a system to evaluate risks and analyse feasibility of proposed actions before taking them. Such an approach would prevent situations like that created by initiatives on Transnistrian number plates, when Moldova imposed a measure without evaluating its feasibility.
- Elaborating an efficient communication strategy on Transnistrian problem to address both people from the right bank and especially residents from the left bank. The information shall be released in the due time and in a language accepted by both sides. The lack of such a communication strategy was especially experienced in March 2006, when Moldovan authorities did not provide enough information to Transnistrian economic agents regarding the new customs regime, letting Tiraspol leaders introduce the situation the way they wanted.
- In the context of talks on necessity to democratise the Transnistrian region, additional efforts are needed to remedy related shortcomings on the right bank of the Dniester, otherwise double standards could be promoted. These efforts would be part of broader efforts of Moldova to boost the attractiveness of the right bank for residents from the left bank.

5. Development and economic reforms

If starting 2001 to 2005 the annual GDP growth rate was higher than 6 percent, a 4-percent GDP growth was achieved in 2006 because of the "wine crisis" the same year.

Table 2. Economic growth indicators

Year	2004	2005	2006	2007*
GDP growth, % compared with the precedent year	7.4	7.5	4	3.3
Gross value added, % of GDP	85.9	83.6	83.2	84.2
Final consumption, % of GDP	103.9	109.9	113.4	112.36
Gross investments in fixed capital, % of GDP	16.05	19.09	21.7	29.8

* Data for 2007 cover January-September.

¹⁷³ Relevant actions in the EUMAP context needed to increase EU actions;

The Moldovan industry has recessed in the period concerned and it grew again in July 2007 only. The meat processing was a branch which helped the industry the most to recover from recession. However, the process of recovery from the 2006 shock was very long. In addition, perspectives of agriculture in 2007 have raised concern. Important decisions on sustenance of agriculture adopted in early 2007 are welcome. The regulation on use of the fund for subsidising agricultural producers was adopted, but the fund is small and resources are allocated unfairly and inefficiently. New rules on subsidising of insured risks in agriculture have been approved, enlarging the list of budget-subsidised risks, with compensation costs reaching 60 percent of the policy cost. At the same time, the Government shall not discriminate agricultural farms on the basis of processed surfaces or economic size of agricultural entities.

At present, the economic growth is limited by large urban areas, while the rural economy is stagnating. The gross value added in agriculture has decreased in the last years, with this sector being incapable to increase incomes in rural areas and ensure a sustainable poverty reduction. So far, regional development policies have been materialised in programmes and normative acts only. For example, the National Programme „Satul Moldovenesc” (2005-2015) repeats many objectives of other strategic documents. The law on regional development was adopted in December 2006. But the economic effect of these documents is feeble so far because of strategic planning and implementation deficiencies.

Remittances from other countries sustain the economic growth in continuation. In 2006, the Republic of Moldova was ranked the 1st place along with Tajikistan regarding the share of remittances in GDP. Risks related to high remittances are aggravated by their use for consumption mostly, as only about 11 percent of remittances are invested or deposited, as well as by incapacity of local enterprises to meet internal criteria. As a result, the trade deficit is growing; the national currency is appreciating, and this hardens the situation of domestic producers; this maintains a high inflation rate; consumption credits granted by commercial banks are growing and they are released in riskier conditions; and the Government, which relies more on taxation of consumption, is not obligated any longer to do its best to implement reforms that could essentially change the structure of economy and revenues.

The excessive dependence of Moldovan economy on Russian market, followed by the summer 2007 drought have modified the strategy of the European Bank for Reconstruction and Development on Moldova, which rather aims to improve business climate, support economic diversification and reformation of energy system and municipal sector, redress the difference between the capital and regions.

In order to support a sustained economic development, a new medium-term strategic document, the National Development Strategy (NDS) was adopted to continue policies formulated by EGPRSP. But a successful implementation of this document depends on allocated funds. As regards EGPRSP, the full compatibility of objects and allocated funds established by financial documents was not respected.

5.1 Cooperation with international financial organisations

Moldova has resumed cooperation with International Financial Institutions during the implementation of EUMAP. In 2006 the Memorandum with IMF on economic and financial policies for 2006-2008 was adopted. The approval of the Memorandum launched the cooperation programme with IMF for a three-year term on the basis of the Poverty Reduction and Economic

Growth Facility worth 118.2 million dollars. In addition, Moldova participated in the elaboration of the memorandum on economic and financial policies for 2007, which once approved, allowed the IMF to provide an additional financial assistance worth 46 million dollars aimed to reduce the negative impact of “external shocks” on domestic economy.

Also, the foreign debt was restructured via the Paris Club in 2006. Projects funded by the World Bank, “Improvement competitiveness”, “Rural Investments and Services, RISP II”, „Quality education in rural areas” and “Public finance management”, have been launched.

Meanwhile, IMF and World Bank have held missions to Moldova to assess the macroeconomic situation. The joint IMF-WB mission in September 2007 welcomed progresses in the banking system of Moldova. But the high inflation raises a serious concern of these institutions in spite of actions taken by NBM.

Next years, Moldova will enjoy assistance from the US Millennium Challenge Corporation to implement investment projects targeted at economic growth and poverty reduction. They will take the shape of irredeemable investments in fields of public utility.

5.2 Macroeconomic and financial stability

By modifying the law on NBM in 2006, the key goal of the National Bank was established as being to control the inflation. However, the inflation was high in 2007, too. Thereby, the 10-percent rate set by IMF for 2007 in the memorandum on economic and financial policies was exceeded in October, though perspectives at the beginning of the year encouraged optimism to comply with this limit. However, the external influence – dearer fuel and imported electricity – has rapidly increased prices in the second semester of the year. This occurred in spite of NBM actions. Thus, the National Bank resorted to liquidity sterilisations in 2007. The basic interest rate was increased by 25 percentage points in September 2007, up to 16 percent, this being the greatest rise of interest rate in the past 7 years.

In parallel with the inflation growth, the leu appreciated versus other currencies in 2007 and this is an unfavourable scenario, as the appreciation of domestic currency should serve the goals of the central bank to control the inflation. The appreciation of Moldovan leu versus US dollar has affected people who depend on remittances in dollars. At the same time, this fuelled currency reserves, which reached 1,333.5 million dollars as for December 31, 2007, covering three months of import.

NBM cannot control the high liquidity inflow entering the country and this poses major difficulties for inflation control. The way the electricity prices for final consumers are established is another cause of high inflation. ANRE has to increase them gradually in order to prevent shocks like in August 2007, and so prices grow rapidly the next months.

The failure to maintain the inflation in the limits established by IMF made NBM decide to introduce the direct inflation targeting the next 2-3 years. The direct inflation targeting is welcome to fulfil inflationist goals, but it implies big responsibilities for the National Bank and yielding by Government, which has to give up macroeconomic policies incompatible with the National Bank's objective. But the Government is not ready yet for such a step. Also, the introduction of the direct inflation targeting requires the National Bank to use a macroeconomic model to forecast inflation in the context of predicting other macroeconomic indicators: increasing the GDP on the basis of

sources and usages and those on foreign position of Moldova, a model which was not elaborated yet.

The current account deficit is also on the rise following the growth of imports. Imports increased by 17.5 percent in 2006, compared with 2005, and they advanced by 37.5 percent in January-October 2007, compared with the first ten months of 2006.

Moldova's overall foreign debt exceeds 3,000 million dollars and it essentially increased in 2006 and 2007. The restructuring of foreign debts was negotiated in 2006 and, therefore, the report with bilateral creditors – Paris Club members – concerning consolidation of the foreign debt of Moldovan Government was signed, with about 150 million dollars from debts contracted before December 31, 2000 being consolidated. As regards Government's debt towards NBM, it accounted for 2,373.4 million lei on November 30, 2007, of which state securities count for 1,973.4 million lei. It was reimbursed 127 million lei and by 118.8 million lei, accordingly to laws on state budget for 2005, 2006, 2007.

In order to improve the public debt management, the law on public debt, state guarantees and state re-crediting with the support of the project on sustaining the public debt management in Moldova was adopted in December 2006, substituting the 1996 law on state debts and state guarantees. Its coherent application will ensure more stability and transparency of the general fiscal framework.

5.3 Transparency and fiscal stability

The process of elaboration of the Medium-Term Expense Framework within fiscal policy started in 2005 and it is annually adopted for a three-year term. But the lack of technical and economic resources affects economic forecasts.

The compatibility between EGPRSP and MTEF was not completely evaluated in compliance with EUMAP and this hardened the funding of EGPRSP priorities and analysis of social impact of policies. Also, there are discordances between MTEF and the 2008 state budget law. Forecasts on macroeconomic indicators from the two financial documents do not correspond.

The state budget in the last years was elaborated with a low forecasting capacity in terms of incomes, and it was often modified, as executed revenues were higher than those forecasted. The execution of expenses is usually lower than forecasted and it intensifies at the end of the year.

The Moldovan Parliament has repeatedly derogated and granted tax exemptions or other economically unjustified payments. A law was adopted in 2007 to modify and complete some legal acts on legalisation of capital, fiscal amnesty and reformation of the system of taxation of incomes of legal entities. The capital is legalised through the procedure of voluntary declaration incomes, estate and securities by individuals who are residents of Moldova and material and financial assets by legal entities. Taxes collected after privatisation have been distributed between state budget and state social insurance budget. According to data from December 2007, capital worth about 60 million lei has been legalised. Although this amount may grow by the end of the legalisation term, as happened in other countries, budget incomes are insignificant.

Subjects of the fiscal amnesty are legal entities and individuals who have arrears covered by the record system of the State Fiscal Service, National Social Insurance House, including the special record system, as for January 1, 2007, for fees, taxes, other payments, rises for late payment and fines afferent to the state budget, state social insurance contributions, mandatory health insurance

premiums unpaid before the enactment of the law, inclusively those postponed or restructured accordingly to legislation in effect. Arrears in the amount of 4,337.6 million lei towards the national public budget were reported on December 1, 2007. The fiscal amnesty did not have effect on the 2007 state budget because the recovery of fiscal debts was not included in incomes foreseen for that year. However, such a step may encourage hopes of subjects benefiting of fiscal amnesty that the Parliament will repeat actions of this kind, as well as discourage disciplined taxpayers. Experience of other countries proves that the fiscal discipline was not restored in general after fiscal amnesties.

Local budgets will suffer after the introduction of duty-free on reinvested profit, as they depend 30 percent on this kind of revenues; for this reason, transfers from the state budget to local budgets for 2008 have been increased, but not enough to cover these losses. Also, benefits after larger investments could not cover these losses, as the general business climate and macroeconomic situation in country are unstable and this influences more the decision to invest than the profit tax rate, which was not very high in Moldova before 2008 as well.

Not legal entities alone will benefit after the modification of the reinvested income tax. Starting January 1, 2008, the income tax rate for individuals will grow in parallel with the rise of personal exemptions. Also, a double taxation rate was introduced and taxation rates existing in majority of EU member states were also maintained. However, employees do not enjoy great benefits, as the mandatory state social insurance contribution and health insurance premium have been increased. Many domestic companies continue to operate in shadow economy: they do not declare revenues and do not pay these taxes. High state social insurance taxes and health insurance premiums motivate employers not to declare real salaries of employees, undermining the stability of the fiscal system.

6. Development and social reforms

6.1 General commitments by the Republic of Moldova

The Action Plan includes a series of provisions on social policies. Chapter 2.1 „Political dialogue and reforms” and Objectives 7 „Protection of the child rights” and 8 „Equal treatment” stipulate a series of reforms in the field of social policies besides legal reforms. However, Chapter 2.3 „Social-economic reforms and development” is the most important in terms of social policy commitments. In order to boost the welfare of population, Moldovan Government has committed itself to “adopt significant measures to reduce poverty, especially to improve the allocation and efficiency of social assistance” (Objective 17). Also, a series of actions are planned “to redirect public expenses, so that to reduce poverty among children and to increase the schooling rate.” In this context, key actions that the Government shall adopt envisage protection of children based on the community principle, rationalisation of benefits for children, enhancing efficiency of assistance for families in need, remedying factors which limit the access of children from needy families to education and improving their access to primary and secondary education (Objective 18).

As regards social and employment policies, the Moldovan Government has pledged to consolidate the dialogue and cooperation and to harmonise social standards and practices and employment policies with EU standards and practices (Objective 23). Subjects covered express in the area of social and employment policies stipulated by the Action Plan include social dialogue, healthcare and labour security, equity of genders in labour sector, respect for labour rights, employment, social protection and wide inclusion.

Chapter 2.7 „People-to-people contacts” also stipulates a number of relevant actions aimed to improve the social environment. They include among others actions and measures in the field of education and youth (Objectives 75-76), development of cultural cooperation (Objective 77), cooperation of civil society (Objective 78), trans-border cooperation (Objective 78) and public health (Objective 80).

At the same time, EUMAP stipulates actions which do not envisage the social development but have clear social implications. They envisage the migration, combat of trafficking in human beings, consolidation of the anti-drug fight.

6.2 Progress

6.2.1 Poverty reduction

Poverty is one of worst effects of the failed social and economic reforms in Moldova. This phenomenon had manifested with a maximum magnitude and intensity in 1998-1999 following effects of the Russian financial crisis on Moldovan economy. Starting 2000, poverty indicators have declined and some Millennium Development Goals concerning poverty reduction have been accomplished. However, poverty rates have rather tended to grow or stagnate throughout the implementation of EUMAP. This was based on poverty growth in rural areas because of low productivity of agriculture and limited opportunities to get non-agricultural jobs in villages (Table 3). The poverty is expected to grow again in rural areas in 2007 because of unfavourable weather last summer.

Table 3. Poverty rates on residential areas

Year	2002		2003		2004		2005		2006**	
Poverty rate Residence	absolute	extreme	absolute	extreme	absolute	extreme	absolute	extreme	absolute	extreme
Total	40.4	26.2	29.0	15.0	26.5	14.7	29.1	16,1	30.2	4.5
Cities*	16.5	8.5	12.8	5.3	6.9	2.9	5.9	2,3	-	-
Towns	46.8	33.9	42.4	23.4	34.9	17.5	34.2	17.8	-	-
Villages	45.1	30.2	31.1	16.2	31.2	18.0	36.0	20.5	-	-

* Cities are the municipalities of Chisinau and Balti.

** Data for 2006 are incompatible with data for precedent years.

The medium monthly wage, available revenue and medium monthly pension in 2005-2006 increased more than the existence minimum. The real salary on economy has increased by about 32 percent in 2005-2007 mainly due to the rise of wage in the real sector. In parallel with the rise of the medium salary in the real sector of economy, the medium nominal wage in the budgetary sector has increased starting April 1, 2007, with the law on salary system in the budgetary sector being modified.¹⁷⁴ At the same time, remittances from abroad are so far the main revenue source of population. According to official data, the share of remittances in the 2006 GDP was 36.2 percent, ranking Moldova along with Tajikistan on the first place regarding this coefficient.

¹⁷⁴ Law 355-XVI from 23.12.2005 concerning salary system in budgetary sector;

6.2.2 Protection of the child

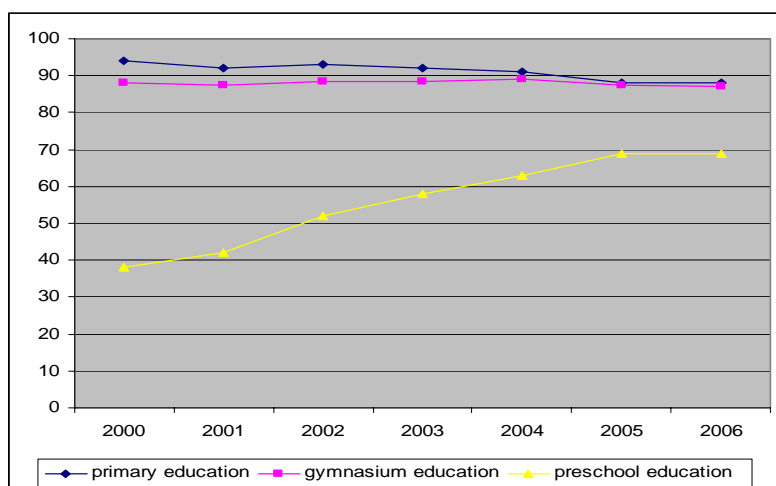
In April 2007, the Government adopted minimum quality standards for care, education and socialisation of children from residential institutions. These standards are being promoted for quite a long time by community of donors and active nongovernmental organisations in charge with protection of the child rights. Twenty-three standards have been adopted and they establish minimum quality conditions, from principles of organisation of the child protection system in residential institutions to evaluation of personnel of these institutions.

In order to rationalise benefits for children and boost the efficiency of assistance for families in need, the single birth indemnity for insured and uninsured persons was increased from 800 lei in 2006 up to 1,000 lei in 2007. A great progress related to the child protection policies was the adoption on July 9, 2007 of the national strategy and action plan on reformation of the residential child care system for 2007-2015.¹⁷⁵ There are approximately 12,000 children in nearly 70 residential institutions at present, with most of them having living parents or close relatives. The strategy is based on this approach and it says that the number of children who do not live in families shall be reduced by 20 percent by 2012. The institutionalisation is the main tool in Moldova that the Government is using to “protect” children. The new strategy is based on the idea that the child shall grow in a family or in an environment close to the family for a normal development.

6.2.3 Ensuring access to education

Available statistics do not allow a rigorous analysis of changes related to access of children from needy families to education. In general, statistics reveal that coverage rates are on the decline in primary and gymnasium education (Diagram 1). At the same time, the progress slowed down in pre-school education in 2005 after a very strong coverage rate.

Diagram 1. Evolution of net coverage rate in education, %



Source: NDS.

In spite of the lack of statistics, there is no premise that coverage rates in education have worsened on account of children from wealthy families. On the contrary, observations and reports “on the ground” make one consider that the schooling rate has declined on account of children from poorest

¹⁷⁵ GD # 784 from 09.07.2007;

social environments. At the same time, the early quit rate in education system shall be also noted. While about 21.8 percent of youths early quitted the education system in 2004, this indicator reached 23.6 percent in 2006.

6.2.4 Social dialogue and employment policies

Progresses in this area were irregular. The National Strategy on Employment Policies for 2007-2015 was approved in 2007. The approval of this document was preceded by public events at which representatives of trade unions, employers, some NGOs and other organisations have discussed it.

Thereby, progress in implementing the EGPRSP accordingly to EUMAP was not made at a high level, with the strategy being extended with one year. A new strategic document was worked out to establish development goals of the country for 2008-2011, including policies on growth of people's welfare, which is a continuation of policies formulated by EGPRSP – the National Development Strategy. However, this document establishes long-term development priorities and that's why the Government did not assume major risks by involving social partners in talks.

But other policy decisions with an immediate impact have been adopted without public consultations and they encouraged protests by categories concerned. The amendment of the law on salary system for the budgetary sector without preliminary public consultations was symptomatic from this point of view, as the deadline for the rise of basic salaries of certain categories of budgetary employees was postponed. Teachers concerned by the new law had an expected reaction, with social tensions and protests occurring in January-February 2007. Spirits were calmed down after a new modification of the law in favour of salary earners. The lack of an effective dialogue was also proved by the way the law on entrepreneur's patent was amended. Amendments restricting some economic activities on the basis of entrepreneur's patent entered into force on January 1, 2007 and January 1, 2008. Therefore, protests by patent holders completed the protests by teachers in the first trimester of 2007, as well as threats to manifest again in 2008.

The merger of the Confederation of Free Trade Unions „Solidaritatea” and Confederation of Trade Unions of Moldova was also an important event in 2007. The division of trade unions in December 2000 weakened the unionist movement and deteriorated the image of the two organisations. Unsettled property conflicts deepened the division. The merger of trade unions could essentially improve the dialogue between Government and employers, as well as protection of rights and interests of workers, but this goal will be reached should the new organisation be capable to get and keep a real independence from governance, and this will unlikely happen in the near future.

6.3 Shortcomings and problems

A major deficiency in implementing poverty reduction policies is linked to inconsistency and other defective aspects of statistics. The National Bureau for Statistics and the Ministry of Economy and Commerce are very late with publishing poverty indicators. Thus, poverty rates for 2006 were released in October 2007 and databases of Household Budget Surveys are unavailable to the public to conduct independent studies and researches. Main poverty indicators for 2006 were calculated accordingly to the new poverty estimation methodology, which helped improving the results and aligning the new methodology to international standards. But these changes made the 2006 indicators incompatible with the precedent years and the old methodology was not applied in parallel with the new one, in order to ensure comparability.

The increasing dependence of people on social allocations and non-social transfers is another risky aspect. The social assistance system shall be modified, with nominative compensations being granted without an evaluation of the financial condition of beneficiaries. The modifications were initiated in 2006, when the Ministry of Health and Social Protection has launched the Pilot Project to test revenues of beneficiaries of compensations from three districts of the country and the Riscani district of the capital. Starting 2008, the project will extend nationwide. So far, no major progress was made in using the data collected in the pilot districts. Only the programme on optimisation of the social assistance system for 2007-2009 was elaborated and delivered to the Government for examination in August 2007.

The elaboration of policies is followed by an imperfect implementation, superposition of institutional competences or inconsistent division being a cause. Thus, the Ministry of Education and Youth was entrusted to control the implementation of minimum quality standards for care, education and socialisation of children from residential institutions, while the Ministry of Social Protection, Family and Child (MSPFC) should normally do this. These standards regulate a wide range of aspects regarding protection of children from residential institutions (health, living standards, socialisation, participation in community life, etc.), not the education as a narrow area. In spite of its institutional “rehabilitation” after a short period of integration with the Ministry of Health, MSPFC does not have a visible role in formulating and implementing social protection policies, it is short of financial and human resources and lacks decentralised territorial units to closely monitor the implementation of policies at a central level. The social prestige and institutional competences of the Ministry of Social Protection, Family and Child do not match with difficulty of social problems in country.

Another problematic aspect of division of social responsibilities is observed in the decision concerning the national strategy and action plan on reformation of the residential child care system for 2007-2015. This Government decision obliges the Ministry of Finance and the Ministry of Social Protection, Family and Child to take into account the provisions of the strategy and plan when elaborating public expense policies. But financial economy reasons prevail in decisions by the Ministry of Finance. Therefore, the 2008 budget does not include enough resources to implement the strategy. The two ministries are in charge with monitoring and coordinating the implementation of this strategy. The division of tasks could turn into a dilution of responsibilities, so that some goals of the strategy could be failed.

So far, social reforms are not accompanied by a rigorous financial planning. For example, only 20 out of 60 actions stipulated by the national strategy and action plan on reformation of the residential child care system have been financially estimated, while another 14 have been classified “in the limit of allocations”.

The devolution of responsibilities to local public authorities without a financial coverage for these tasks is a shortcoming of all major social reform initiatives. The strategy on reformation of the residential child care system is the latest and most convincing example in this regard. The estimated cost of the strategy is about 250 million lei, of which 210 million is expected to go to local budgets. But permanent financial stresses faced by local authorities in the last years will unlikely bring them a financial support in implementing the strategy.

Social assistance programmes contain in continuation very serious errors of inclusion and exclusion. Only social pensions and allocations for children cover more the poorest category of population, but they are low and do not have a great effect on welfare of families. Providing social

assistance accordingly to merits towards state or on the basis of social category leads to an inefficient use of resources.

The pension system is not reformed because of ambiguity of the existing system, clear inequity and insufficient allocations to the state social insurance budget. The pension system based on three pillars is at level of tasks, with major problems being linked to high costs of the reform, embryonic development of the capital market, inexperience to manage private accumulation funds and, perhaps the most important one, negative experience of people who lost all deposits in the Savings Bank in 1991-1992, consequences of financial pyramids after the collapse of the Soviet empire.

Progresses in adjusting the educational system to European standards are insignificant. Although Moldova has joined the European education area, actions by authorities do not prove responsibility and quality practices. In particular, the decentralisation of the education system, curriculum reform, and university autonomy was not finished. At the same time, by applying centralist and unfair admission methods, Moldova violated the social equity principle in education sector. Imperfection of education policies of authorities has seriously hit the funding of educational institutions and development of research programmes. The university and secondary professional education system was not adjusted so far to new requirements and rigours of labour market because of the excessive theory of curricula, low quality of educational services and lack of partnerships between professional education institutions and potential employers.

The reformation of the healthcare system had a minimum effect on growth of efficiency of the system and health of people. The double reformation of the Ministry of Health in 2004-2006 had a certain influence on capacities of promoting healthcare policies, while the reorganisation in November 2007 attributed to the ministry a structure corresponding to priority directions of action. After the Government approved the National Health Policy in 2006,¹⁷⁶ the Ministry of Health has raised to the Parliament the draft healthcare development strategy for 2007-2012 and an action plan aimed at enhancing capacities of the ministry in terms of regulating and promoting healthcare policies; optimising the use of available resources; improving the quality and efficiency of healthcare services. Many reservations are linked to supervision of catching diseases. The healthcare system is being decentralised starting 2007 by increasing the autonomy of Centres of Family Doctors from pilot districts (under the Government's commitment to separate primary health assistance centres from district hospitals starting January 1, 2008),¹⁷⁷ so that to boost the responsibility of family doctors and local authorities in administrating resources. The anticipated effect is to reduce the number of doctors who leave the system and to improve quality of medical services.

Decent labour conditions have not been ensured. The Government did not work enough to develop a long-term cooperation with business community regarding legislation regulating labour relations, especially remuneration of personnel and social insurance, from perspective of developing it (application of a transparent interactive methodology focussed on practical actions and open communication between the sides). As a result, about 30 percent of employees do not have legal labour contracts. At the same time, the number of work accidents is still high. Although the Ministry of Economy and Commerce approved on autumn 2007 the draft law on labour security and health (to replace the 1991 law on labour protection), which the Parliament is due to adopt, the effect of this law depends on reorganisation of the Labour Inspection (which is short of human, material and financial resources).

¹⁷⁶ National Health Policy, <http://ms.gov.md>;

¹⁷⁷ Public Health Reform Project in Moldova implemented under the aegis of the Ministry of Health by EPOS Health Consultants/GVG/HMTC and funded by EU;

6.4 Priorities

In order to ensure a good implementation of social development reforms, the following actions shall be taken on short-term:

- *Maintaining consistence and comparability of statistics.* Frequent change of methodology will halt the elaboration and monitoring of implementation of some evidence-based policies.
- *Ensuring the publication and access of all interested parties to statistical databases of the National Bureau for Statistics.* This will allow independent poverty researches and will enhance the public confidence towards governmental policies.
- *Increasing the role of the Ministry of Social Protection, Family and Child in public policies.* So far, this ministry had rather the role of a “social house” which monitored or through which social assistance payments have been performed. MSPFC shall have a greater role in elaborating and implementing social policies, it shall have decentralised territorial units and larger human and financial resources.
- *Providing financial coverage for tasks delegated explicitly or implicitly to local public authorities in the field of social protection policies.* These authorities are often empowered or instructed to assume certain social protection tasks without holding indispensable financial resources to implement policies.
- *Continuing the pension system reform.* The reformation of the pension system in agriculture is the “hard nucleus” of this reform. Now this sector contributes with less than 8 percent to the social insurance budget, while retirees of this sector benefit by 48.2 percent of all payments.

Continuing the social assistance reform. The implementation of the necessity testing system instead of merits towards state and social categories is the key premise to ensure a fair social coverage of this policy.

7. International trade

7.1 General commitments by the Republic of Moldova

EUMAP includes several relevant chapters on foreign trade of Moldova, incorporating a series of fields which generally address commercial relations between both partners, modernisation of the Customs Service, adoption by Moldova of technical standards and regulations close to European norms, sanitary and phytosanitary issues. In other terms, the implementation of provisions in all these areas aims to augment the bilateral trade by improving the bilateral trade framework, simplifying and facilitating trade-related regulations and procedures and improving the quality of Moldovan exports by complying within European requirements on quality and security of exported products. This section is an overview of evolution of Moldova's foreign trade and it outlines main trends in implementing EUMAP provisions on international trade.

7.2 Trade evolution

Moldova's foreign trade had controversial trends in 2005-2007. However, negative trends prevailed in the period concerned. Above all, the trade deficit has grown much. It exceeded 1.8 billion dollars in the first ten months of 2007, which is nearly twofold more than in the similar period of 2005. The

rise of trade deficit is linked to a spectacular growth of imports on background of a lower advance of exports. On the other hand, imports grow so much particularly because Moldovan companies cannot meet the strong internal demand fuelled by remittances of emigrants inclusively. On the other hand, Moldovan exports remain concentrated in low value added sectors, which face increasing competitive pressures on international business markets. Besides these “lasting” trends, the trade balance faced two external shocks in 2006: the Russian embargo on Moldovan wines and high rise of Gazprom gas delivered to Moldova.

Although the export of Moldovan wines was resumed last autumn, the negative impact of the Russian embargo is experienced in continuation on dynamics of Moldovan exports in general. Thus, the exports have grown more, if not counting losses suffered after the Russian embargo on Moldovan wines. In consequence, the export rise rate increases more than twofold and this cannot be explained only by the effect of “recovery” of exports in 2007 after the introduction of the embargo.

Another very important progress is the fact that EU has become the main destination of Moldovan exports (more than half of all exports). However, both the rise of the value and volume of Moldovan exports to community market and compression of exports to CIS (following the “wine” embargo), as well as the inclusion of supplies to Romania and Bulgaria which joined the EU on January 1, 2007 in the statistics on exports to EU have contributed to this evolution.

In this context, it is worth to note the succession of “textiles” to the main export category and strong decline of “food products”. However, the succession of textiles on account of agro-food products as main export provides little reasons of enthusiasm: they are based on imported raw material and have a low technological input. At the same time, these structural changes are expected to amplify in the near future: reduction/ stagnation of agro-food exports seems to be long because of external barriers for exports and the 2007 drought, which seriously hit the agro-food industry, while textile exports will grow firstly due to relocation of production capacities from new EU member states farer to the east.

Authorities did not always promote exports. For example, they prohibited in 2007 in an obscure manner the wine exports in bulk, and thus winemakers found themselves in a more difficult financial condition. The conflict was apparently settled after a joint enterprise, MoldBelVin, was founded to be the only possibility of export of Moldovan wines to Belarus. Such a solution seems to be doubtful both in terms of economic efficiency and respect for market principles and honest competition. Even more, the situation around wine exports in bulk runs counter the provision of the Action Plan “to set up a mechanism to ensure the regular advisory/ information of commercial community regarding export/ import regulations and procedures.

At the same time, authorities have embarked on a series of actions aimed to promote Moldovan companies and exports through participation in international exhibitions and economic missions (Germany, Russian Federation, Romania, Bulgaria, the Netherlands), as well as organisation of business forums. The effectiveness of these actions was not estimated so far.

7.3 Trade relations with EU

Trade relations with EU have progressed much when the EUMAP was implemented.

In 2005, after the Action Plan was launched, Moldova has negotiated a 2nd-level preferential regime or GSP Plus, which stipulates a duty-free access for exportation of a wide range of products to the

community market. On one hand, this regime does not cover a number of “sensible” products for Moldovan exporters such as sugar, wine, meat products, etc. On the other hand, in comparison with GSP, GSP+ covers some agricultural and fish products, and provides a wider access which will be revised once in three years, compared with 1 year.

So far, there is no rigorous evaluation of the impact of GSP+ on Moldovan exports to EU market in 2005-2007. For all that, in 2005 the Ministry of Economy and Commerce made a comparative analysis of GSP and GSP+ and anticipated great benefits for Moldovan exporters. According to estimates, GSP+ was covering around 88 percent of Moldovan exports on EU market, compared with 55 percent of the GSP-covered supplies.

In 2006, Moldova began negotiations to get the Autonomous Trade Preferences (ATP), a much more advantageous trade regime for Moldovan exporters. Moldovan and EU officials met more than once in 2007. A delegation from the European Commission has visited Moldova to test capacities of Moldovan authorities to control the origin of commodities exported by Transnistria-based companies to EU market in preferential regime and noticed an important progress in this area. Therefore, Moldova was given green light and EU initiated internal procedures to grant the Autonomous Trade Preferences to Moldova, which will culminate with the institutionalisation of the asymmetrical trade regime in early 2008.

At the same time, advantages of a more preferential trade regime should not be overrated. Moldovan “strategic” exports, mainly of wine, sugar, fruit and vegetables, animal products and dairy will be rated and adjusted to all European quality requirements. Moldova’s progresses in the area are very modest.

Besides, Moldova ratified in 2007 the CEFTA agreement, which covers 8 countries after the accession of Romania and Bulgaria to EU: Albania, Bosnia and Herzegovina, Croatia, Macedonia, Moldova, Montenegro, Serbia and Kosovo. However, this agreement is believed to have a marginal impact in commercial terms, given the limited trade exchange potential between Moldova and Western Balkan countries.

7.4 Customs/ origin control

Great progress was made in the customs area, a fact confirmed inclusively by the European Commission’s decision to award the Autonomous Trade Preferences to Moldova in 2008. Following actions of major importance for the modernisation of Moldova’s Customs Service shall be noted.

Firstly, the procedure of integration of information systems „SICOM” and „SPECIMEN” into the information system „ASYCUDA World” has been started.

Another very important progress is the transfer of competences of issuing EUR.1 movement certificates needed to export Moldovan commodities to community market from the Chamber of Commerce and Industry (CCI) to the Customs Service. That was a key condition for the negotiation of ATP. Also, under the CEFTA Agreement, these certificates will be issued for export to CEFTA member states. Besides, starting January 1, 2008 competences of issuing CT-1 preferential certificates for exports to the CIS will be transferred from CCI to the Customs Service. This will relieve companies exporting to the West and the East. At the same time, capacities of the Customs Service to survey exports will keep being a priority in the near future.

Another important priority of the plan is linked to “development of *one-stop-shop*” for all relevant documents on international trade, from improving cooperation between customs services and other border agencies (for example, border guard service, police, veterinary service) to all bureaucratic procedures related to foreign trade. The “one-stop-shop” principle for customs control, a concept approved under the Customs Service order # 131-o from 23.04.2007 is implemented by customs offices Chisinau, Ungheni, North and Airport.

At the same time, activities linked to implementation of the “one-stop-shop” principle concerning other border agencies have started in the second half of 2007; the interdepartmental commission for the implementation of the “one-stop-shop” was established under the Government order # 88-d. Therefore, the implementation of this provision in 2008 is realistic.

However, the last report “Cost of doing business 2008” signals a lack of progress by Moldova concerning the “Trading across Borders” area. Almost all indicators (documents, time and costs of exports) did not change on background of better indicators of countries from the region.

7.5 Standards, technical regulations and conformity evaluation procedures

Progresses in this area are also important for Moldova to fully enjoy the preferential trade regime with EU, with this subsection covering key accomplishments.

MEC has worked out the MSTQ Strategy for Moldova. The World Bank and Japanese Government supported reforms in this area within the „Competitiveness Enhancement Project” launched in January 2006.

Besides, Moldova has joined the European Committee for Standardisation (CEN) as Partner Standardisation Body in May 2007. It is expected to facilitate the adjustment of Moldovan technical standards to European norms. The following countries hold a similar status besides Moldova: Armenia, Australia, Bosnia and Herzegovina, Egypt, Russian Federation, Serbia, Tunisia, Ukraine (these countries are introduced as partners, not members in the CEN documentation). The status of partner countries is awarded to national standardisation agencies covered by ISO, but they will unlikely become CEN members or affiliates for geographic or political reasons.

Another very important provision of the Plan was fulfilled under Law # 421-XVI from 22.12.2006, which cancels the mandatory and introduces the voluntary application of standards.

Just in the second half of 2007, the Government made a number of decisions aimed to approach technical regulations and conformity evaluation for some key Moldovan products: meat products, sugar, bread and pastries.

7.6 Sanitary and phytosanitary standards

The readjustment to community requirements on health of animals and meat processing industry is very slow. Authorities in charge are often inert in implementing provisions on this area. For example, Moldova replied to comments by European experts regarding progress report on fulfilment of veterinary recommendations made by DG SANCO in May 2005 to Moldova and delivered them to the European Commission just in 2007. Of course, the development of trade with EU requires faster progresses.

The “Complete honouring of requirements from the WTO Agreement on Application of Sanitary and Phytosanitary Standards (SPS) and WTO Agreement on Technical Barriers to Trade (TBT)” is very late – all necessary documents are being translated.

A significant activation of the process of adoption of phytosanitary norms to adjust the national legislation to EU norms was noticed in 2007. The adoption of these norms is a condition to get the EU ATP and they cover many “sensible” products of Moldova.

The following may be noticed among key progresses: the law on sanitary veterinary service and basic regulations on food hygiene and security, official controls by veterinary authorities in accordance with European regulations concerned.

The strategy on resizing reference laboratories for food security and health of animals was elaborated. These laboratories were being endowed with necessary equipment, with the financial assistance of the European Commission in early 2008.

8. Business climate

8.1 Reform of commercial law

Many actions have been launched and normative acts on commercial law have been adopted in the past three years. But not all of them had the planned effect. The “one-stop-shop” principle used to certify companies and issue permits and certificates by local authorities was introduced as far back as 2005.

In order to implement EUMAP provisions on the right to build business and right of societies, the law on entrepreneur’s patent was modified and completed in 2006 to gradually annul patents needed to sell certain kinds of goods and provide some services, reduce the patent fee and introduce the social insurance tax. The law on insolvency was modified and completed in accordance with IMF requirements. Thus, law courts only will be entrusted to settle the insolvency, without inefficient and often unfair extra-judiciary proceedings. The law on state enterprises was also modified to make them comply with rigours of market economy. Key changes are linked to the business building procedure, election of leading bodies and distribution of profit.

The law on limited societies was adopted in 2007.¹⁷⁸ Although the draft law stipulated the rise of the registered capital of societies up to 30,000 lei, with the purpose to adjust the national legislation to European laws and eliminate lots of fictive limited societies, the law adopted in the final reading maintains the registered capital of societies at the minimum level of 5,400 lei. But a normal functioning of the law on insolvency, not the rise of minimum registered capital is needed to eliminate non-functional commercial societies.

The new law on accountancy¹⁷⁹ and the law on auditing¹⁸⁰ were adopted and they are better than the precedent laws and meet current requirements. The law on accountancy adjusts the fiscal and accounting legislation. A series of national accounting and auditing standards have been modified. In order to boost efficiency of financial (bank and non-bank) institutions and other societies

¹⁷⁸ Law # 135 from 14.06.2007 concerning limited societies;

¹⁷⁹ Law # 113 from 27.04.2007 concerning accountancy;

¹⁸⁰ Law # 61 from 16.03.2007 concerning auditing;

providing credits, the draft law on offices of credit stories has been worked out and it is being examined by Parliament.

However, a legal framework is not enough to improve the business climate, with respect for the rule of law being important. Violation of the rule of law is an obstacle in attracting foreign investments in Moldova. Progress in the commercial law area also depends on success of the judicial reform. Entrepreneurs need to be sure that their rights will be effectively defended by law courts.

The Action Plan invites the domestic private sector to contribute to the adoption of a Good Corporate Governance Code aimed to protect rights of shareholders and reduce the number of conflicts inside societies, but economic agents did not show interest in this respect. The National Commission for Securities has elaborated the draft code with the participation of civil society and published it on its website. But it was approved on June 1, 2007 only. Unfortunately, not all joint stock societies in Moldova have a viable financial policy and adequate marketing strategy.

The new law on state registration of legal entities and individual entrepreneurs will enter into force in April 2008 and stipulates a shorter procedure of record and erasing from the State Register of legal entities and individual entrepreneurs, reducing the record term, the number of documents needed for record and erasing. The law provides the possibility to electronically apply for state registration. The State Registration Chamber will publish the list of economic agents which do not function and those which did not present reports within 12 months.

Cooperation between the Ministry of Economy and Commerce and Foreign Investors Association in Moldova has intensified. Recommendations formulated by FIA in the White Book are being examined by a working group of the state commission in charge with regulating the entrepreneurship, which was established just in April 2007. Now foreign investors in Moldova enjoy the same rights as domestic investors do except for the right to own farm and forest land.¹⁸¹

8.2 Regulatory reform

The regulatory reform was drafted by the Ministry of Economy and enforced under Law # 424-XV concerning optimisation of the normative framework regulating entrepreneurship from February 7, 2005. It aims to revise the existing normative framework in order to eliminate regulations which do not correspond to legislation and halt the business development. The first stage of the regulatory reform was successfully completed. Official acts regulating the entrepreneurship issued by every public administration have been identified and considered and further included into four categories accordingly to their compliance with the “guillotine” regulations. Regulatory reform units are being established in local public administrations and they are expected to help stimulating and developing a favourable business climate.

The second round of the regulatory reform began in 2006, when the law on basic entrepreneurship regulatory principles¹⁸² (called “Guillotine II”) was adopted. But reforms are very slow. The implementation term of Guillotine II was extended, with the law concerned entering into force on January 1, 2008, while this was planned for August 11, 2007. The Government has violated more than once the timetable for presentation of communications and legislative drafts during the regulatory reform, and this undermined the implementation of a reform from which the private sector is expecting much. Bureaucracy and low transparency are so far a major problem in Moldova

¹⁸¹ Under Article 22 of Law # 81-XV from 18.03.2004 concerning investments in entrepreneurship;

¹⁸² Law # 235 from 20.07.2006 concerning basic entrepreneurship regulatory principles;

and they support bribery and corruption as methods to avoid the system known for excessive governmental regulations and interventions.

A series of actions have been taken to sustain small and medium businesses. In May 2006 the Government adopted the strategy on sustenance of small and medium businesses for 2006-2008 and the action plan on implementation of the strategy, as well as methodology to monitor and evaluate it. The Parliament adopted the law on sustenance of small and medium businesses,¹⁸³ which specifies qualification criteria for enterprises, principles of state policies concerning small and medium businesses and stipulates the establishing of an organisation advising the Ministry of Economy and Commerce to implement the state policy in this area. The organisation for the development of small and medium business sector¹⁸⁴ was created in May 2007 to implement small and medium business sustenance strategies and programmes. But its good functioning will depend on funds allocated for small and medium business sustenance programmes. Otherwise, the organisation will not harvest better results than those achieved by its predecessor, the entrepreneurship sustenance and small business development fund. Although the number of small and medium businesses has grown, their share in the total number of enterprises did not change, while their share of revenues on sales in overall returns on sales has declined.

The reform strategy of the state regulatory framework on entrepreneurship¹⁸⁵ in Moldova was elaborated in 2007 and it contains a concrete action plan on further simplification of administrative procedures at stages of business registration, development and liquidation, optimisation of licensing process, consolidation of capacities of public administration in reforming the regulatory framework.

At the same time, Moldova's place in international indexes does not indicate great progresses in improving the business climate. According to the World Bank „Cost of Doing Business” Index, Moldova has descended in 2006 and 2007, and it ranks now the 92nd place among 178 countries, which reveals a slow progress of the regulatory reform in Moldova and much faster evolution in other countries. The “Cost of doing business 2008” study also signals difficulties in getting licences, many controls inclusively by bodies with a questionable competence.

8.3 Privatisation

EUMAP stipulates the necessity of implementing the privatisation programme, focussing in particular on the need to privatise large enterprises and energy sector. However, the privatisation problem was avoided for a long period. Thus, the execution of the programme for 1997-1998 was repeatedly extended to 2007. Transparency and public information regarding privatisation was minimal in the period concerned.

The law on management and privatisation of public property¹⁸⁶ entered into force in June 2007. It covers 179 estates that cannot be privatised, including S.A. „Retelele Electrice de Distributie Nord”, S.A. „Retelele Electrice de Distributie Nord-Vest”, S.A. „Centrala Electrica de Termoficare Nord”, „S.A. Centrala Electrica de Termoficare nr.1” and S.A. „Centrala Electrica de Termoficare nr.2” in Chisinau, while Moldova's Energy Strategy until 2020¹⁸⁷ says that the state-owned distribution grids and three generation capacities will be privatised. The almost failed privatisation in this key sector is linked to institutional blockages and narrowed corporate interests. State-run industrial

¹⁸³ Law # 706 from 06.06.2006 concerning sustenance of small and medium business;

¹⁸⁴ The organisation was created under GD # 538 from 17.05.2007;

¹⁸⁵ The strategy was approved under GD # 104 from 01.02.2007;

¹⁸⁶ Law # 121 from 04.05.2007 concerning management and privatisation of public property;

¹⁸⁷ The strategy was approved under GD # 958 from 21.08.2007;

enterprises (manufacturing precision machines, equipment, and electronics) have not been privatised and this reduces their international competitiveness much.

Also in 2007, the law on public procurements entered into force and the regulation on agency for the public property and the regulation on privatisation of public property have been elaborated and delivered to the Government to examine them. The adoption of the law on public and private partnership is delayed.

8.4 Taxation

The Fiscal Code of Moldova was modified and completed in 2007, in order to ensure the compatibility of the national fiscal legislation to WTO regulations. The rate of mandatory registration as VAT payer was raised. At the same time, an entrepreneur has the right to get registered as VAT payer should it operate taxable supplies of goods, services (except for imports) worth over 100,000 lei in 12 months in a row and the payment for these deliveries is discounted via transfer. Also, a new modality was introduced in 2008 to record economic agents from Moldova except for Chisinau and Balti municipalities as VAT payers and except for investments in housing and means of transport. Supplies of excised goods in free economic zones and between residents of different free economic zones of Moldova are exempted from excises.

As regards VAT reimbursement to non-residents, Moldova is considering the international fiscal legislation in this area and it seems that this will not be introduced in national legislation soon.

The strategy on development of the State Fiscal Service for 2006-2010 was approved and it stipulates the updating of fiscal management procedures, simplification and automation of the system of record and reporting of fiscal payments, improvement of staff training and information of taxpayers. Authorities took actions to build the Single Information and Assistance Centre for Taxpayers, a major goal of 2007, accordingly to the Preliminary Millennium Challenge Account.

An action plan on elaboration and implementation of the Code of Conduct on business taxation was drafted. The first action of the plan concerning a comparative analysis of fiscal measures, including fiscal facilities on income tax for legal entities covered by national fiscal legislation is being implemented.

New double taxation avoidance agreements have entered into force in the period concerned, inclusively with Austria, Greece, the Czech Republic, Slovakia, Slovenia, Ireland, and agreements have been signed or are being negotiated with other countries.

9. Market institutions

The key EUMAP regulation on market institutions establishes the National Agency for the Protection of Competition. After the establishing of this agency has stagnated in two years of implementation of the Plan, the agency was created and started operating in 2007. So far, ensuring an efficient competition was resumed to the application of several decisions on sanctioning of certain competitors (Bomba, Sun Communications), with some of them (ex. Union of Sugar Exporters) protesting vehemently. The agency does not function transparently and efficiently. At the same time, the elaboration and implementation of a uniform definition of state aid in national legislation was another essential failed aspect of EUMAP.

The unification of all institutions regulating the non-bank sector of financial market into the National Commission for the Financial Market was an important progress. The Corporate Governance Code was approved on autumn 2007 and it was recommended to joint stock societies to internally adopt it. The trump of the document is that potential investors will pay more for a share in a well-administrated company, taking into account the EU corporate governance plan which says that new corporate governance initiatives should clarify duties of management structures. In this context, not all domestic stock societies have a viable financial and marketing policy in conditions of an unfavourable conjuncture on market; there are no methods to establish opportunities for reorganisation of joint stock societies, etc.

10. Border, migration and trafficking in human beings

10.1 Border

The border control is an essential and key element of the Action Plan, a fact implying the adjustment of Moldovan practices to European norms and elaboration of a training and exercise strategy on state border management.

The establishing of EUBAM in 2005 was the greatest progress. It is in charge with assisting the modernisation and providing quality border and customs services. The work of EUBAM was also appreciated during visits by high-ranking European dignitaries and representatives of European border guard and customs services.¹⁸⁸

Following negotiations between parties participating in the Mission, Ukraine has introduced new border crossing rules for the Transnistrian section, which demand the presence of Moldovan customs stamps on documents accompanying commodities. This measure is very important to combat the smuggling in the Transnistrian section of the Moldova-Ukraine border. The decision of Ukrainian authorities was welcomed by representatives of the European Commission, United States and, of course, Chisinau authorities. At the same time, the Tiraspol administration and Russian officials did not warm the new rules.

These regulations had a positive effect in terms of border security, among them:

- An increasing number of Transnistria-based enterprises have been registered in Chisinau. As a result, both respective firms (got a certain recognition, were legalised and got a legal access to EU market) and Moldovan and Ukrainian budgets have gained;
- A better control on this section of the border by combating trade and illegal migration in the region more efficiently.

In this context, clearest progresses were made in combating illegal border crossing, developing risk analysis system and cooperation between competent services of Moldova and Ukraine. However, additional measures are needed besides this progress to modernise the border control system. Reports still signal smuggling in the Transnistrian section of the Moldovan-Ukrainian border.

Also, competent authorities took actions to secure the Moldovan-Ukrainian border. Thus, the Government Decision approving the Protocol between the Border Guards Service of Moldova and the General Border Police Inspectorate of the Romanian Ministry of Administration and Interior

¹⁸⁸www.eubam.org/index.php?action=show&sid=trc623gnhk5fsisdumapjjtxx8qib9tv&id=311;

concerning exchange of information to fulfil specific missions entered into force on January 6, 2006.

An important step in this direction was the organisation of working visits and exchange of experience between Border Guard Service (BGS) officers to other countries (the US, Sweden, Hungary, Lithuania, Slovenia, Greece, Croatia, Austria and Macedonia). According to BGS reports, meetings focussed on improving border security knowledge, using techniques for a more efficient work to discover certain violations at border, finding hiding places used to carry smuggling by diverse means of transport, etc.

Besides these progresses, there are certain shortcomings in terms of border control. EUBAM reports note several key areas requiring essential efforts to improve the situation, among them:

- Structural issues (firstly, communication and information technologies, adoption of a customer-targeted institutional culture);
- Building a risk analysis system, improving the infrastructure, consolidating work practices;
- Training (discovering fake documents, speaking foreign languages);
- Combating illegal activities at border;
- Developing and improving the quality of cooperation and coordination between participating agencies, including at international level;
- Continuously implementing the Joint Declaration (concerning the new customs regime in the eastern section of the Moldovan-Ukrainian border).

Following these recommendations by the Mission, official institutions of Moldova have taken notice and proposed certain regulations as follows:

- Cooperation within the Mission shall cover the Ministries of Justice and Prosecutor's Office, which will be an important step forward enhancing the cohesion of activity of border guards and customs officers in terms of discovered illegal actions;
- Anti-corruption actions by respective services shall be accompanied by a campaign to inform citizens regarding rights and responsibilities while crossing the border.

However, additional actions are needed besides this progress to modernise the border control system.

Also, there were certain failures in this area which affected the activity to a certain extent. Delaying the adoption of the law on the Border Guard Service was an obstacle in this respect. The law was adopted just in October 2007. This law aims to regulate the status, destination, general structure, management bases and principles of activity of BGS, which is in charge with border guard and control. The draft law was surveyed by EUBAM experts, whose initiatives were taken into account when it was worked out.

The 7th Meeting of the EUBAM Advisory Board took place in late September 2007 and heard a report on findings of the joint border monitoring by Moldovan and Ukrainian partners in June-August 2007. Also, it approved an action plan covering November 2007 – November 2008 and extended the EUBAM mandate until November 2009.

By and large, it could be said that one of the most important results while implementing the EUMAP has been achieved with regard to border control. This became possible with the support of EUBAM and EUBAM-coordinated BOMMOLUK programme.¹⁸⁹

¹⁸⁹ Summary of the report on EUBAM activity for June-August 2007, 26.09.07, www.eubam.org;

10.2 Migration

The migration, in particular, illegal migration is also a major problem faced by Moldova. National and international institutions such as IOM, OSCE, and International Centre for Migration Policy Development¹⁹⁰ have a substantial support in terms of migration impact (monitoring, analysis and combat of migration). For example, IOM with the support of the Swedish International Development Agency has launched the project „Capacity Building for Developing Migration Management Procedures and Migration Policies in the Republic of Moldova”, which contributes to a better migration management as regards information, prevention and elaboration of new strategies.

In this respect, the enactment of the law on ratification of the European Convention on the Legal Status of Migrant Workers adopted in Strasbourg on November 24, 1977 and signed by Moldova on July 11, 2002 was an important progress during the implementation of EUMAP.

Also, EUMAP stipulates possibilities of inviting Moldova to participate or observe European migration programmes (ARGO, AENEAS). The Republic of Moldova participates in AENEAS Programme launched by the European Commission to combat illegal migration and repatriate migrants to their origin countries. The European Commission encouraged the participation by launching an initiative called *Regional Protection Programmes*, which aims to directly assist refugees and improve the protection and respect for human rights in Moldova, Ukraine and Belarus.

In this regard, Moldova has signed partnership agreements with EU member states and agreements on temporary residence with the view to employ migrants from Moldova, as well as to adopt joint programmes on migration.

These programmes have three general key goals: strengthening the administrative and institutional capacity to ensure international protection to asylum seekers; encouraging access to international conventions and international protection; improving conditions to receive refugees and asylum seekers.

At the same time, progress in this area was delayed much because of institutional organisation after the dissolution of the National Bureau for Migration in February 2006. Thus, some actions stipulated by EUMAP, as well as projects on cooperation with international organisations have been frozen for a certain term. The situation was somehow clarified on May 17, 2006, under Government Decision # 529.

MEC and MIA took over the tasks of former NBM. The Migration and Asylum Office opened in MIA to work out and implement state policy on migration and asylum, monitor migration inflows, and award immigrant status. The migration policy division opened in MEC and includes two new structures: the Labour Migration Policy Unit and the Directorate for the Implementation of Labour Migration Policies as part of the National Labour Force Agency. They are in charged with elaborating labour migration strategies, negotiating and signing bilateral agreements on labour migration and social protection of immigrant workers, as well as issuing, extending or annulling labour permits of foreign citizens and stateless people.

¹⁹⁰ All organisations are implementing migration projects;

This case proved one more time that institutional reorganisations are often based on reasons that experts or civil society cannot understand, rather than on systemic and functioning assessments.

The following other progresses may be noticed in this area:

- The decision to finish an integrated information system on migration monitoring under the MFAEI auspices, which will allow competent bodies to exchange information and work out relevant policies;
- The Government Decision on building the automatic integrated migration information system;
- The opening of the Common Visa Application Centre in the Hungarian Embassy on April 25, 2007.

Also, certain shortcomings such as refusal by Moldovan authorities to open two more consulates in Cahul and Balti to issue Romanian visas were noticed besides accomplishments in this area.

At the same time, there were cases of illegal migration and staying of foreign citizens in Moldova. For example, 1,481 cases of violation of the stay regime were recorded in the first three trimesters of 2007, with law courts deciding the expulsion of 255 foreigners and the reduction of stay regime for 336 foreign citizens.¹⁹¹ Of course, these data do not reflect the real situation, given the fact that many immigrants illegally arrive in Moldova and they are not recorded.

As regards state institutions opened after the dissolution of NBM, the Labour Migration Policy Unit and the Directorate for the Implementation of Labour Migration Policies as part of the National Labour Force Agency function in line with legislation.

At the same time, the exact number of Moldovans who immigrated to other countries is unknown and this is a proof that the national migration evaluation and monitoring system is not truly functional so far. Even more, in spite of the governmental decision on elaboration of the draft concept of the automatic integrated migration information system, it was elaborated but not made public before September 1, 2007.

The signing and enforcement of the visa issuance facilitation and readmission agreements between EU and Moldova on January 1, 2008 is a great progress. EU visa issuance facilities include among others: maintenance of the 35-euro visa fee (compared with 60 euros); free visas for certain categories of Moldovan citizens, in particular, students, carriers, retirees, journalists, businesspersons, etc. Also, the visa facilitation agreement refers to the application of the *bona fidae* principle, so that certain categories which previously obtained a visa for EU member states and respected the conditions of stay in these states, will obtain, in a priority and facilitated mode, multiple entry visas for one year and more.

The number of countries participating in CVAC is expected to grow in future.

10.3 Trafficking in Human Beings

Moldova is generally rated an origin country of trafficking in human beings (THB). At a smaller extent, Moldova is considered a transit country for THB victims from the former Soviet Union to

¹⁹¹ Police bodies discovered many illegal labour cases involving immigrants in the 3rd quarter of 2007;

various destinations. Most of victims are women and girls trafficked in particular to Turkey, Israel, the United Arab Emirates, Russia, Baltic Countries, Greece, Spain and Portugal.

According to studies and researches, the trafficking in human beings as number of registered cases has grown most in 2006, with experts signalling it as one of most urgent problems of Moldova.¹⁹²

The illegal migration is a problem both for origin and destination countries. Majority of victims have been forced to practice prostitution. They were particularly exploited for labour purposes in building and agriculture sectors. According to the International Centre „La Strada”, girls from poor families from rural areas, who do not have a profession and are jobless, are the social base of trafficking in human beings in Moldova.¹⁹³

Decisive factors making youths leave their country and accept offers of traffickers are poverty, unemployment, lack of a qualified profession and perspective to find a job. The domestic violence is often a determinant factor for victims.

Diplomatic missions, international organisations and domestic non-governmental organisations provided a considerable support in preventing and combating the trafficking in human beings. They include among others the USEmbassy, OSCE Mission, IOM, UNICEF, International Centre for the Protection and Promotion of Woman's Rights „La Strada”, Centre for the Prevention of Trafficking in Women, and others.

Actions taken by competent organisations in this area may be classified into two groups: awareness and education; and reduction of vulnerability. Mentioned missions and organisations have held roundtables and training seminars, consultations in the first three years of implementation of EUMAP, actions aimed to prevent and combat THB. Also, information campaigns have been held for risk groups (schoolchildren, students, graduates from boarding schools and orphanages, etc.).¹⁹⁴ On the other hand, these organisations are discontent that the Government does not allocate funds from the budget to support efforts against trafficking in persons. In addition, it is very hard to evaluate accurately the size of THB, firstly because this problem is latent and secondly because the country lacks a single information collection system.

The lack of data to evaluate revenues raised from trafficking in human beings in Moldova, which are believed to be very large, is another problem. This occurs because Moldova lacks a single system to record THB cases and systematise accounts.

A cogent example in this regard is the fact that „La Strada” Centre records cases accordingly to the year when the victim was trafficked, while IOM does this accordingly to the year when the victim was assisted. Thus, divergences between data collection systems harden the identification of common statistics.

The opening of asylums for THB victims in 2006-2007, with assistance of international and national organisations (UNDP, IOM, „La Strada”) is welcome. They advise and shelter THB victims for a certain term.

¹⁹² Mocanu, Gh. (ed.) (2008), *100 most urgent problems of the Republic of Moldova in 2007*, IDIS Viitorul, http://www.viitorul.org/public/1057/ro/Studiul_100_probleme_2007.pdf;

¹⁹³ „Trafficking in persons in Moldova. Commentaries, trends, recommendations”. International Centre for the Protection and Promotion of Woman's Rights „La Strada”, Chisinau, 2005, p. 49;

¹⁹⁴ <http://www.lastrada.md>;

Government's efforts in this direction focussed on building a legal basis to combat trafficking in human beings and repression by law enforcement bodies.¹⁹⁵ In this context, it is worth to note that Moldova has signed and ratified all key international acts on anti-THB fight.

Also, Moldova has introduced harsher penalties for trafficking in human beings and incriminated the organisation of illegal migration. Amendments to Articles 165 and 206 of the Criminal Code under Law # 376 from 29.12.2005 concerning modification and completion of some legal acts entered into force on January 31, 2006, hardening and detailing sanctions for trafficking in human beings committed by individuals or legal entities. However, main shortcomings related to the prevention and combat of trafficking in human beings are linked to enforcement of existing regulations.

The withdrawal of licences from tourism agencies involved in this process was an important measure to combat THB. At the same time, there are new methods to attract THB victims and the online recruitment and false matrimonial offers are on the rise.

A paradoxical phenomenon regarding THB is observed every passing year. Both members of socially vulnerable families and members of wealthy families become targets of THB. This trend proves that potential victims do not leave because they are jobless in Moldova, but they rather look to migrate to other countries, in order to earn and live better there. At the same time, cases of trafficking in human beings inside the country have also intensified in 2006-2007.

Churches of major religious denominations in Moldova have an important role in combating THB, and they announced plans to build the Inter-Confessional Coalition for the prevention of trafficking in persons. The primordial goal of programmes launched by churches is to raise the awareness of society over THB risks, to cultivate tolerance towards victims in laic and church community, and to rally clerks in promoting anti-THB messages.¹⁹⁶

According to preliminary accounts by structures assessing and monitoring the trafficking in human beings, the size of this phenomenon was reduced in 2007. Relative progress was made in the first half of 2007 due to efficient cooperation between state structures, police and competent organisations. Seminars and roundtables were organised, with authorities raising interest to control the migration process and search efficient mechanisms to exchange information on illegal migration.

EUBAM had also a considerable contribution in this area, as well as a MFAEI initiative to build and coordinate an automatic integrated information system between Ministry of Information Development, Ministry of Interior Affairs, Ministry of Economy and Commerce, Border Guard Service and Information and Security Service. However, the multitude of cases recorded in the period concerned reveals that the trafficking in human beings is quite grave and ample.

A relatively positive international situation concerning THB was attested in late 2007, when Moldova improved its rating in the world human trafficking index regarding gravity of this scourge,

¹⁹⁵ Law # 67-XVI from 30.03.2006 concerning ratification of the Council of Europe Convention against Trafficking in Human Beings (Monitorul Oficial of the Republic of Moldova, 2006, # 66-69, Article 277); Law # 15-XV from 17.02.2005 concerning ratification of the United Nations Convention against Transnational Organised Crime (Monitorul Oficial of the Republic of Moldova, 2005, # 36-38, Article 122); Law # 17-XV from 17.02.2005 concerning ratification of the protocol on prevention, repression and punishment of trafficking in persons, especially of women and children, additional to the United Nations Convention against Transnational Organised Crime, Monitorul Oficial of the Republic of Moldova, 2005, # 36-38, Article 126);

¹⁹⁶ www.iom.md, http://www.mai.md/trafic_ro;

succeeding from Group I to Group II of the index besides Romania and Ukraine. At the same time, statistics by „La Strada” Centre reveal that about 1,500 Moldovans are annually trafficked and nearly 90 percent of them are trafficked for prostitution, followed by labour and beggary purposes.

Legal bodies are also behind in THB field, as they lack an adequate strategy in the process of prevention and combat of trafficking in human beings. Therefore, quality of criminal investigations in this area leaves much to be desired.

Commitments and initiatives by some NGOs in charge with preventing and combating trafficking in persons are also important to struggle THB. Their work is often more efficient than of state structures participating in the prevention and combat of THB. Activity of specialised NGOs is also welcome to inform and raise awareness over THB consequences. Workshops generally focus on prevention of trafficking in human beings and facilitation of access of THB victims to assistance.¹⁹⁷

In order to efficiently combat the THB, competent authorities will urgently promote draft legislative and normative acts needed to improve the existing normative framework and will elaborate and implement realistic execution mechanisms. Analyses on situation in this area revealed that actions by competent bodies are insufficient to remedy factors and conditions favouring illegal migration, including trafficking in persons.

Recommendations by international organisations regarding THB in Moldova would be to make state authorities assume responsibilities in preventing and combating THB, as international organisations and NGOs are mainly involved in this process at present. For this purpose, authorities should develop a national mechanism for the social reintegration of victims by opening community assistance centres and, not the last improve labour conditions and living standards in Moldova.

¹⁹⁷ For more information, see www.iom.md, www.migratie.md, www.lastrada.md;

CHAPTER IV – MONITORING OF EUMAP IMPLEMENTATION PROCESS

The process of implementation of EUMAP was monitored by Moldovan Government, European Commission and civil society organisations.

1. Governmental monitoring

Moldovan Government has released 7 reports on monitoring of EUMAP until November 2007. Besides reports covering all areas of EUMAP, majority of governmental institutions have worked out monitoring reports on their sectors of competence.¹⁹⁸ Governmental reports are the result of a complex and in-depth monitoring by Moldovan authorities and useful resources concerning dynamic of the EUMAP implementation process. However, their main fault is that, with certain exceptions, they do not cover shortcomings and problems in sectors covered by the Action Plan. In the case of some Central and East European Countries, while being involved into the accession process, the lack of the necessary attention towards problems observed in their European integration process has complicated punctual systematisation of the shortcomings and, therefore, the formulation of systemic approaches to remedy those problems. But the lack of such approaches hardened the path of these countries to EU. In order to prevent such a situation, the Moldovan Government shall apply a monitoring mechanism, which would help systematise problems in the EUMAP implementation process and formulate appropriate solutions.

2. Monitoring by European Commission

On December 4, 2006, the European Commission released its first report on implementation of EUMAP – *Progress report on Moldova*. It stated the Commission's opinion regarding the way Moldova has honoured from February 2005 to November 2006 the commitments assumed in front of EU under EUMAP. The report covered key progresses and shortcomings of this process.

The report covered among others important and moderate progresses such as management of the Moldovan-Ukrainian border; cooperation with international financial institutions; poverty reduction; reformation of research, development and innovation sector (assessed as “good progress”); awarding of GSP+; progress in combating the organised crime, including trafficking in human beings; Moldova's accession to the Bologna Process (assessed as „progress”); cooperation with EU in certain foreign policy matters; improvement of investment climate (assessed as “certain progress”), etc.

On the other hand, main shortcomings include: **a) imperfect implementation of reform strategies; b) insufficient freedom of the media; c) wide corruption; d) governmental interference in business sector;** e) unclear regulations on parliamentary immunity; f) lack of clear action priorities; g) lack of optimal conditions to start up and manage business; h) insufficient respect for human rights; i) limited independence of the judicial system; j) extended and indefinite prerogatives of the prosecution. The report did not classify problems accordingly to their gravity, but given the used terms, one may notice that problems **a-d** would be most serious.

Moldovan authorities received the European Commission report with a relative satisfaction. The general mark given by the Commission to Moldova was a positive one. At the same time, a comparative analysis of reports on Palestinian Authority, Jordan, Israel, Morocco, Tunisia and

¹⁹⁸ For more details, see <http://www.mfa.md/integrarea-europeana/rapoarte>;

Ukraine with the *Progress Report on Moldova* would have ranked Moldova below performances of Ukraine and Morocco in ENP until November 2006.

The European Commission will release in April 2008 the second progress report on Moldova regarding the implementation of EUMAP in December 2006-2007.

3. Reports by civil society

The civil society was represented in the process of monitoring of EUMAP implementation by the consortium ADEPT Association and Analytical Centre EXPERT-GRUP, which worked out quarterly reports known as „Euromonitor”.¹⁹⁹ The ADEPT – EXPERT-GRUP consortium released nine issues of this report from February 2005 to December 2007, which covered ten key areas stipulated by EUMAP. This publication makes a synthesis of „Euromonitor” reports (Chapter III).

Another two reports on implementation of EUMAP have been worked out under the aegis of the European Initiative Programme (EIP) of Soros Foundation-Moldova (SFM). The first of them monitored the implementation of EUMAP from February 2005 to May 2006 in a wide range of areas, aiming to assess progress and make recommendations to decision-making authorities participating in the process of European integration of the Republic of Moldova.²⁰⁰ The second report was worked out on the platform of the Euroforum Consortium by 13 NGOs after the European Commission released the *Progress Report on Moldova* on December 4, 2006. The report by NGOs covered the first two years of implementation of EUMAP and aimed to express an alternative point of view to the European Commission.²⁰¹

¹⁹⁹ „Euromonitor” reports are available at www.e-democracy.md and www.expert-grup.org;

²⁰⁰ Fruntasu, Iu. and Kovali, O. (ed.) (2006), *From implementation of EUMAP to elaboration of policies*, Issue I, Chisinau, Cartier;

²⁰¹ Euroforum Consortium (2007), *Independent report by 13 representatives of Moldovan civil society (In the context of the European Commission Report from December 4, 2006 and 2nd anniversary of EUMAP)*, March 30, http://www.europa.md/upload/File/boxedreapta/raport_independent.doc;

CHAPTER V – PROSPECTS OF MOLDOVA-EU RELATIONSHIP

The December 5, 2007 Communication from the European Commission *A Strong European Neighbourhood Policy* answered, but on a short-term, the question regarding the future of EU-Moldova relations.²⁰² It recommended the roll-over for one more year of the Action Plan on Moldova besides similar documents on Ukraine and Israel, which should be over in early 2008.

The fact that the EUMAP was rolled over for one more year proves that EU regards this process as incomplete, particularly in the following areas: **respect for human rights, freedom of the media, independence of the judiciary, anti-corruption fight and business climate.** The first three areas are those which the EU recommended to Moldova after the June 19, 2007 EU-Moldova Cooperation Council to redouble efforts in order to implement reforms. The December 2007 initiative by the Commission could mean that EU did not essentially improve its perception on EUMAP implementation process in June-November 2007.

On the other hand, the Commission's initiative to roll over the Action Plans for Ukraine and Israel reveals that initial expectations when these documents had been drafted proved to be overbid. This way, the famous theses by C. Hill *capability-expectations gap*²⁰³ concerning the EU foreign and security policy is becoming more and more valid for ENP as well.

Anticipating the perspective of Moldova-EU relationship after 2008 is not easy and not even Brussels knows exactly how to formulate it, inclusively because Moldova is late with doing its homework.

EUMAP says that "in the light of accomplishing goals of this Action Plan and general evolution of EU-Moldova relations, the possibility of a new contractual relationship will be considered." At the same time, the common programme of the German, Portuguese and Slovenian Presidencies in the Council till mid-2008 does not say anything about EU-Moldova relationship, while it outlines that negotiations on a "enhanced PCA"²⁰⁴ will be completed with Ukraine. The prospects of Moldova-EU relations will unlikely preoccupy France, which will chair the EU Council in July-December 2008.

On the other hand, *Strengthening the ENP Report* by the German EU Council Presidency recommended the "Enhanced Agreement" which is being negotiated with Ukraine starting March 2007 to be a model for EU relations with other ENP-covered countries.²⁰⁵ In addition, the October 2007 EP Resolution on strengthening the ENP reiterates its July 12, 2007 recommendation that negotiations between EU and Ukraine shall lead to the signing of an "association agreement, which would stipulate the opportunity to join the EU inclusively."²⁰⁶ The EP Resolution recommended EU to approach Moldova the same way. Moldova will be able to negotiate with the EU a similar

²⁰² European Commission (2007), *Communication from the Commission A Strong European Neighbourhood Policy*, Brussels, 05/12/2007, COM(2007) 774 final, http://ec.europa.eu/world/enp/pdf/com07_774_en.pdf;

²⁰³ Hill, C. (1993), "The Capability-Expectations Gap, or Conceptualizing Europe's International Role", *Journal of Common Market Studies*, 31(3), pp. 305-328;

²⁰⁴ EU Council (2006), *18-months Programme of the German, Portuguese and Slovenian Presidencies*, Brussels, 21 December, 17079/06, POLGEN 125, http://www.eu2007.de/en/The_Council_Presidency/trio/index.html;

²⁰⁵ EU Council (2007), *Strengthening the European Neighbourhood Policy – Presidency Progress Report*, Brussels, 15 June, 10874/07, http://ec.europa.eu/world/enp/pdf/enp_progress-report_presidency-june2007_en.pdf;

²⁰⁶ European Parliament (2007), *Report on strengthening the European Neighbourhood Policy* (2007/2088(INI)), A6-0414/2007, 15 November 2007, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0538+0+DOC+XML+V0//EN>.

agreement that the latter is negotiating with Ukraine starting March 2007, should one of these initiatives be accomplished.

Relations between EU and Moldova will change for sure, regardless of the way the EU approaches its relationship with Moldova, in particular because the 10-year initial term of PCA will be over in July 2008. The first question raised here is when these changes will occur? As the PCA was not denounced by a party before the initial deadline, it will be automatically renewed for one more year, until July 1, 2009. Moldova and EU could begin negotiations on a new framework of contractual relations meanwhile, but this depends on the way the EUMAP will be implemented during the extended term. On the other hand, officials of European institutions, especially of the Council of Ministers consider that talks on future framework of relations with Chisinau should match with electoral cycles from Moldova. Negotiations on a new framework of contractual relations will be late the least until parliamentary elections in early 2009, should this idea be followed.

By not disregarding the importance of temporary aspect, the most important question remains however what kind of content the changes within the EU-Moldova relations will bring? As in the case of the first question the answer is in the “sleeve” of Moldovan authorities. If this answer will be an ace, on them depends as well.

CONCLUSIONS

The first general conclusion drawn after the monitoring of the EUMAP in February 2005 – January 2008 is that the progress in implementing this document was irregular, with Moldova harvesting better results on the economic dimension of the Plan. The second general conclusion is that Moldova's progress was a variable on the political and economic dimensions of the EUMAP, regarded distinctly.

A great progress was noticed on the political dimension of the document in areas such as cooperation between Moldova and CoE; cooperation between central authorities and civil society and border management thanks to a great EUBAM assistance.

Moderate progress was made in promoting political dialogue with EU; cooperating on foreign and security matters, with Moldova generally aligning to EU statements on CFSP; Justice and Home Affairs by facilitating visa issuance and improving migration monitoring systems; combating inhuman and degrading treatment.

Another important aspect is that the progress in implementing the EUMAP was irregular on different dimensions of the reform process. An important progress was observed in all political areas of EUMAP regarding adoption of a new legislation. But this cannot be noted for the application of legislative accomplishments. This generally explains why progresses in certain "sensible" sectors of EUMAP such as respect for human rights, freedom of the media, independence of the judiciary and anti-corruption fight were low or quasi-absent.

Generalising the process of implementation of EUMAP in February 2005 – January 2008, two temporary segments in which political reforms were promoted with different paces may be distinguished. In this respect, the greatest progress was made before March 2007. Several EUMAP-covered sectors have regressed because of the campaign for the June 2007 general local elections. Following a live broadcasting of parliamentary sittings, which enhanced transparency of the Parliament and improved the public information, the live broadcasting of plenary sittings of legislature was ceased without grounded reasons before the 2007 electoral campaign. This and other examples such as the raising of electoral threshold, restriction of parties to build electoral blocs and restricting the appointment of persons holding dual citizenship to high-ranking public offices indicate that the sentence born by popular tradition "two steps forward and one step back" was not unjustly invented.

As regards the 2007 local elections, compared with the 2005 parliamentary elections, no important progress was noticed. Major concerns with the 2005 scrutiny were observed at the 2007 elections, too. The main difference was that violations at parliamentary elections were more fragrant, while they were less serious but more at the 2007 local elections.

Given the slow pace of political reforms during the 2007 local elections and upcoming 2009 parliamentary elections, there are little reasons of optimism in terms of future progress, particularly in "sensible" sectors covered by EUMAP, freedom of the media and independence of the justice. As regards these areas, it may be assumed that central authorities will use the "small step tactic". But they could be done particularly through new legislative elaborations and formal procedures. Great progresses in "sensible" sectors above will be unlikely made, as the liberalisation of reforms in these fields is perceived as undermining the ruling party hold on power. In Moldova, like elsewhere, power is a very valuable asset as well.

The economic development was affected by “wine crisis” which reduced the GDP growth from 7.5 percent in 2005 down to 3.3 percent in 2007. At the same time, the economic growth was limited to large urban areas, while the rural economy has stagnated. The gross value added in agriculture was on the decline, with this sector being incapable to boost revenues in rural areas and ensure a sustained poverty reduction. Regional development policies were materialised so far in programmes and normative acts only and their economic effect is imperceptible because of unsatisfactory strategic planning and implementation.

The role of remittances in sustaining the economic growth is major in continuation on background of high risks of mainly using them for consumption, incapacity of domestic companies to cover the internal demand, growth of trade deficit and appreciation of national currency, bringing this way more difficulties to domestic exporters.

Also, the National Development Strategy was adopted, being a continuation of EGPRSP policies on one hand and an unprecedented effort to provide an integrated vision on Moldova’s development on the other hand. At the same time, this strategy must be a platform document to ensure the joining of efforts by local and international players.

The poverty reduction process did not progress. Although the real salary on economy has grown by about 32 percent in 2005-2007, poverty rates were on the rise or stagnating given the poverty growth in rural areas because of low input of agriculture and limited opportunities to get employed in non-agricultural sectors, with authorities failing to reduce the poverty among children and to increase the schooling rate. At the same time, social reforms were not based on a rigorous financial planning and thus about 30-50 percent of planned actions can be materialised. An essential shortcoming is that social assistance programmes contain very serious errors in terms of inclusion and exclusion.

The business climate was apparently improved by adopting laws and regulatory strategies, which do not meet so far the expectations of businesses and limit foreign investments. Thus, the share of small and medium businesses in all enterprises and returns on sales did not grow. In this context, Moldova’s low ratings in international indexes reveal licence issuance difficulties, lots of controls conducted inclusively by bodies with a questionable competence.

The National Agency for the Protection of Competition is a great progress, but its activity is not transparent and efficient. This clearly reduces the positive impact of this measure. The lack of progress in elaborating and implementing the legislation on state assistance is another shortcoming.

Progresses in foreign trade sector were irregular. Commercial relations with EU have generally developed on background of alarming evolutions such as growth of trade deficit. Firstly, the community market has become the main destination of Moldovan exports, though the accession of Romania and Bulgaria to EU had an important role, as well as the compression of the trade with the Russian Federation after the latter has embargoed Moldovan spirits exports. Secondly, starting March 2008 Moldova will enjoy the Autonomous Trade Preferences in relations with EU. This proves great progresses made by Moldova in reforming the customs and ensuring a control on origin of exported commodities. However, there are some shortcomings in the customs sector. Slowest progress was made in the areas of “standards, technical regulations and conformity evaluation procedures” and „sanitary and phytosanitary standards”. Although progress paces in these areas have accelerated in late 2007 – early 2008, there are serious drawbacks so far. The plenary implementation of the actions planned in these areas is crucial for Moldova to enjoy an asymmetrical trade with EU.

ABOUT PROJECT AND ORGANISATIONS

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The project bears two objectives:

1. Improving knowledge about the EU-Moldova Action Plan among nongovernmental organisations and society in general, in order to facilitate their participation in discussion regarding Moldova’s European policy.
2. Lobbying for adoption of public policies via the analysis and expertise in areas envisaged by the EU-Moldova Action Plan, in a way that makes the process more efficient, more transparent, and more focussed on achieving the actions described in the Plan.

The Association for Participatory Democracy ADEPT is a non-government, not-for-profit, independent, and non-partisan organisation, which is acting in the Republic of Moldova. ADEPT was registered in January 2000. It has gained more than once the status of an organisation working for public benefit. ADEPT is an analytical and practical centre that offers expertise in electoral and democratic processes in Moldova, in South-Eastern Europe, and in the Commonwealth of Independent States. The mission of ADEPT is to promote and to support citizen participation in all aspects of public life.

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