Questionnaire

Part II

Information provided by the Government of the Republic of Moldova to the Questionnaire of the European Commission

CHAPTER 32:

FINANCIAL CONTROL

May 2022

This chapter contains four main policy areas: public internal financial control (PIFC), external audit, the protection of the EU's financial interests and the protection of the euro against counterfeiting.

For the first two areas there is no EU legislation requiring transposition into national law or directly applicable legislation. Rather, the candidate country is expected to adopt and implement internal control (based on managerial accountability) and internal audit, in line with internationally recognised frameworks, standards and EU good practice, across its entire public sector. For external audit, a candidate country is expected to adopt and apply the standards as defined by the International Organisation of Supreme Audit Institutions (INTOSAI).

As concerns the protection of the EU's financial interests, the candidate country needs to set up the national anti-fraud coordination service (AFCOS) and ensure cooperation with the Commission, including during the Commission's on–the-spot missions. The country also needs to set up a structure for reporting of irregularities and suspected fraud cases. The protection of the euro against counterfeiting covers under this Chapter only non-penal aspects. This includes ratifying the 1929 international Convention for the Suppression of Counterfeiting Currency, alignment of national legislation with the *acquis* and ensuring the administrative structures and capacity for technical analysis and classification of counterfeit money.

In order to ensure a common understanding of concepts used under this Chapter, especially with regard to PIFC, the country is invited to ensure that the terminology used in the replies is in line with the definitions and glossary used by the Committee of the Sponsoring Organizations of the Treadway Commission (COSO), INTOSAI and the Institute of Internal Auditors. Please especially ensure the correct use of the terms "internal control", "control", "audit" and "inspection"

I. PUBLIC INTERNAL FINANCIAL CONTROL (PIFC)

A. General overview

1. How is the distribution of competences for internal control and internal audit. Provide a brief overview of any weak points of the managerial accountability arrangements, or the functioning of internal control and internal audit, identified by the central harmonisation unit(s) or other parties such as the Supreme Audit Institutions, the Treasury or the CHU.

According to Article 49 of the Moldova – EU Association Agreement, in Republic of Moldova the PIFC concept is organized in three pillars – Internal control, internal audit and Central harmonization unit.

Responsibilities on implementing and related competences are stated in the Law No.229/2010 on public internal financial control (PIFC)[1], mandatory for budgetary authorities and institutions at central and local levels, public independent institutions, autonomous bodies, SOEs, joint stock companies with full or majority public capital, as well as independent entities and authorities responsible for regulating an economic and / or social field.

According to the above-mentioned Law, responsible for organizing internal control and internal audit is the manager of the public entity, and for centralized harmonization - the Ministry of Finance. Therefore, on internal control are identified different levels of responsibility and accountability. According to Art. 15, the manager of the public entity has primary responsibility for organizing the internal control system in the public entity, whereas the operational managers are responsible to the hierarchically superior management for the organization of the internal control system in the subdivisions they manage. Moreover, each employee within the public entity contributes to the organization of the internal control system, holding responsibilities and tasks established by the manager of the public entity. As well, the manager of the public entity shall ensure the coordination and monitoring of the organization, maintenance and development of the internal control within the subordinated public entities.

On the internal audit pillar, Art. 23 and Art. 25 of Law No. 229/2010 on PIFC state the main competences of the manager of public entity and internal auditors.

The responsibilities and competences of all stakeholders are laid down in more detail in secondary normative framework elements, as follows:

Government decision No. 556/2019 on the Regulation on the achievement, confirmation, and development of professional qualification in the field of internal audit in the public sector[2];

[1] Law No. 229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#

[2] Government decision No. 556/2019 on the Regulation on the achievement, confirmation, and development of professional qualification in the field of internal audit in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119034&lang=ro

Government decision No. 557/2019 on the Code of Ethics of the internal auditor and the Internal Audit Charter[3];

Government decision No. 617/2019 on the Regulation on the evaluation of the quality of the internal audit activity in the public sector[4];

Government decision No. 433/2015 on the template Regulation of the activity of financial services[5];

MoF Order No. 189/2015 on National Internal Control Standards[6];

MoF Order No. 4/2019 on Self-assessment, reporting of internal control and issuance of Statement of managerial accountability[7];

MoF Order No. 153/2018 on National Internal Audit Standards[8];

MoF Order No. 159 /2020 on Regulation on internal audit activity as shared service in public sector[9];

MoF Order No. 160/2020 on Regulation on internal audit activity on contractual basis in public sector[10];

MoF Order No.161/ 2020 on the Internal Audit Norms in the public sector[11];

MoF Order No. 105/2013 on the Methodological Norms for internal audit in the public sector (only the Supplementary Instructions part is in force)[12];

3 Government decision No. 557/2019 on the Code of Ethics of the internal auditor and the Internal Audit Charter, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119035&lang=ro

4 Government decision No. 617/2019 on the Regulation on the evaluation of the quality of the internal audit activity in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119615&lang=ro#

5 Government decision No. 433/2015 on the template Regulation of the activity of financial services, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119299&lang=ro

6 MoF Order No. 189/2015 on National Internal Control Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119965&lang=ro#

7 MoF Order No. 4/2019 on Self-assessment, reporting of internal control and issuance of Statement of managerial accountability, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119967&lang=ro#

8 MoF Order No. 153/2018 on National Internal Audit Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110376&lang=ro#

9 MoF Order No. 159 /2020 on Regulation on internal audit activity as shared service in public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=124999&lang=ro#

10 MoF Order No. 160/2020 on Regulation on internal audit activity on contractual basis in public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125000&lang=ro

11 MoF Order No.161/ 2020 on the Internal Audit Norms in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125001&lang=ro

12 MoF Order No. 105/2013 on the Methodological Norms for internal audit in the public sector (only the Supplementary Instructions part is in force), available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=55043&lang=ro#

MoF Order No. 176/2019 on the approval of the regulation on the reporting of internal audit activity in the public sector[13];

MoF Decree No.140/2018 on the organization and functioning of PIFC Council[14].

MoF has drafted and published on its official web page a Manual on internal control[15] and a Manual on internal audit[16], which comprise a set of guidelines recommended for professionals engaged in performing specific tasks related to internal control and internal audit missions.

At the same time, the results of the systematic monitoring of the situation in PIFC field executed by MoF CHU, presented in the PIFC consolidated annual reports[17], but also the conclusions of the external audit (Court of Accounts)[18], despite the efforts made, point out insignificant progress in development of internal control and internal audit and main weaknesses:

low awareness of the need and benefits of internal control systems and internal audit drive to poorly developed managerial accountability;

unproper organization of internal control in public entities do not ensure efficient performance and risk management;

undersized internal audit subdivisions, which have limited capacity to ensure quality and compliance with professional standards, making them vulnerable to stakeholder expectations;

limited staff resources on both internal control and internal audit pillars, as well as on centralized harmonization, with negative impact on PIFC reform.

13 MoF Order No. 176/2019 on the approval of the regulation on the reporting of internal audit activity in the public sector, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=119895&lang=ro#
14 MoF Decree No.140/2018 on the organization and functioning of PIFC Council, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=110458&lang=ro
15 The Manual on internal control, available in Romanian at:
https://mf.gov.md/sites/default/files/documente relevante/m_audit_intern_0.pdf
16 The Manual on internal audit, available in Romanian at:
https://mf.gov.md/sites/default/files/documente%20relevante/Manual%20CIM_03.06.2020.pdf
17 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at:
https://mf.gov.md/ro/content/controlul-financiar-public-intern. The PIFC annual consolidated report for year 2021 will be available on MoF website starting with June 2022.
18 *Source:* The Court of Accounts annual Report for year 2020, available in Romanian at:
https://www.ccrm.md/ro/raportul-curtii-de-conturi-asupra-administrarii-si-intrebuintarii-resurselor-88_91991.html

2. Is there a PIFC strategy and action plan in place? If yes, please explain the scope and the timeframe of the strategy and the mechanisms for monitoring its implementation. How does it relate to the strategic framework for Public Administration Reform and Public Financial Management? Please provide a translated copy of the Strategy.

The PIFC Development Program (strategy) for 2018-2020 years and the Action Plan for its implementation were approved by the Government Decision no. 124/2018[19].

According to the point 12, at the initial stage, the PIFC Development Program is intended for ministries and other central administrative authorities, the National Health Insurance Company, the National Social Insurance House, in collaboration with the mayoralties of Chisinau, Balti and Cahul municipalities. Thereafter, the lessons learned and the identified good practices will be disseminated to all public entities.

The timeframe of the program was planned to be between 2018-2020 years.

According to the point 31 of the PIFC Development Program, the monitoring mechanism is put in place by regular oversight from the PIFC Council in order to analyse implementation obstacles and shortcomings, identify related risks, submit risk remediation proposals, and report on progress to the MoF. Moreover, monitoring of the implementation of the PIFC Development Program is annually performed by MoF CHU and the results are reported to Government through the Annual PIFC Consolidated report[20].

An ex-post assessment of the PIFC Development Program is currently performed by an independent consultant. Results, by findings and recommendations will serve a basis for developing a new Development PIFC Program for the upcoming period.

A translated copy of the PIFC development Program for years 2018-2020 is attached.

In addition, a strategic objective for PIFC area is set within the Public Finance Management (PFM) Development Strategy for 2013-2022 years, approved by Government Decision no.573/2013[21]. There is a separately dedicated component stating the following specific objective: Establish a system of financial management and internal control and internal audit in the public sector in accordance with the international practices, in order to ensure the efficient and transparent use of public funds.

Therefore, the activities with the aim of further development of PIFC are directed towards:

Strengthening the capacities of the budgetary authorities for the implementation of the internal control system;

19 The Government Decision No. 124/2018 on PIFC Development Program for 2018-2020 and the action plan for its implementation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119173&lang=ro#

20 The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern

21 The Government Decision No. no.573/2013 on Public Finance Management Development Strategy for years 2013-2022, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125548&lang=ro#

Promoting managerial accountability;

Strengthen the internal audit function within the ministries;

Ensuring the coverage and quality of the internal audit activity;

Creating the conditions for outsourcing or sharing internal audit services for public entities;

Alignment of standards and procedures of internal audit and internal control with international standards.

Two separate objectives for internal control and internal audit are within the Public Administration Reform Strategy for 2016-2020 years, approved by Government Decision No.911/2016[22], as follow:

The operational framework for internal control defines responsibilities and powers, and its application by budgetary organizations is consistent with the legislation governing public finance management and public administration in general;

Each public authority / institution implements the internal control and the internal audit in accordance with the general policy documents regarding the internal audit, according to the needs of the organization.

The implementation of PIFC related objectives of the Public Administration Reform Strategy was achieved in two stages:

Activities in Stage I (2016-2018 years) were concentrated on elaboration and application of internal control procedure, supplemented by trainings in the field, as well as on optimal staffing of internal audit structures.

The Stage II (2019-2020 years) was oriented on the study of feasibility of delegation of budgets for further development of internal control and managerial accountability, on the understanding and proper application of internal control regulatory framework, on the compliance of internal audit structures with national and international standards, also, on the capacities of internal audit structures to carry out performance and IT audit engagements.

Even in these conditions, the PIFC reform is perceived as a technical reform of only MoF responsibility with insufficient correlation to other related strategies, in particular, the Public Administration Reform.

22 The Public Administration Reform Strategy for 2016-2020 years, approved by Government Decision No.911/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119202&lang=ro#

B. Managerial Accountability

Managerial accountability is an essential constituent of PIFC reform and concerns the delivery of objectives and services by making best use of available resources. A sound system of managerial accountability requires a balance between administrative performance (legality and regularity) and managerial performance (achievement of objectives and efficiency). Managers need relevant and explicit policy objectives; broken down into clear operational objectives on which to work; the authority and resources with which to achieve those objectives; and the freedom to work out the most efficient way to do so within the constraints set by transparent procedures for the management of public funds.

The proper balance between administrative and managerial accountability is necessary. If the focus is too heavily on the legal/procedural requirements it is likely that a manager's active performance will be measured on how the work is done (administrative accountability) rather than on what results have been achieved (managerial accountability). On the other hand focusing solely on achieving objectives may lead to unintended legal distortions and can carry increased risk of misuse of public funds.

3. Accountability systems tend to evolve during the PIFC reform process, moving from an initial focus on administrative accountability to focus more on managerial accountability. Please rank Moldova's level using a scale from 1 (administrative accountability) to 7 (managerial accountability). Please list the main information sources used in the analysis.

The Public Internal Financial Control (PIFC) reform in itself tends to promote and implement managerial accountability according to EU and international good practices. Moreover, the Law No.229/2010 on PIFC[23] states through article 4 that the manager of public entity is assigned the managerial accountability for ensuring the principles of good governance (transparency and accountability, economy, efficiency and effectiveness, legality and equity, ethics and integrity in the activity of the public entity).

In order to monitor and assess the internal control performance and accountability arrangements, the Ministry of Finance established an annual process of self-assessment and reporting of internal control, along with a Statement of managerial accountability issued and signed by the manager of the public entity. The process of self-assessment and reporting of internal control and issuing the managerial accountability statement is regulated by MoF Order No.4/2019[24].

By these Statements, the managers provide reasonable assurance that the public funds allocated to the achievement of strategic and operational objectives have been used under conditions of transparency, economy, efficiency, effectiveness, legality, ethics and integrity.

23 Law No. 229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#

24 MoF Order No.4/2019 on Self-assessment, reporting of internal control and issuance of Statement of managerial accountability, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119967&lang=ro#

Based on the monitoring performed during last few years[25], MoF CHU ranked the managerial accountability at a level of 3 on a scale from 1 to 7, both for central Government entities and local ones. For analysis of managerial accountability, the following information sources were used:

Annual Internal Control self-assessment reports from central and local second level public bodies, received by MoF CHU. The reports are based on questionnaires with criteria derived from COSO model supplemented by a special chapter of interest for MoF on PFM matters;

Annual Statements on managerial accountability, issued and signed by the managers of the same above mentioned entities and published on their websites. The statement is based on a realistic, correct and complete assessment of the entity's internal control system, as well as on information and findings of internal and external audit reports.

It is obvious also from reports of external audit and control bodies that the authority and responsibility within organizational structures of public entities are not adequately decentralized in practice. The responsibility of operational managers for the achievement of objectives and tasks are not precisely defined. This is an additional proof for ranking the managerial accountability at level 3.

4. Managerial accountability means that in addition to an organisation being accountable to external stakeholders, each part is also accountable internally. This requires an effective delegation framework under which managers and staff are aware both of their responsibilities and of the authority delegated to them. Please describe how the delegation framework is defined, and authority assigned and communicated, within public sector organisations.

According to article 14 of the Law No.229/2010 on PIFC[26], the internal control is organized by delegating the powers and responsibilities without relieving the person delegating the accountability for their accomplishment. In addition, the delegation arrangements are regulated by the National internal control standard no.6 on "Delegated powers"[27], which makes part of a set of national standards developed from the components and principles of COSO model.

Based on the mentioned standard, the managers of public entities delegate powers to carry out the entities' duties and tasks. Public entities can work more efficiently if they have clear delegated powers, which allow lower managers to take decisions in order to achieve the objectives. The managers are responsible to delegate and must make sure that the powers are delegated only to employees with the necessary competence and

25 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern
26 Law No. 229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#
27 The National Internal Control standards, approved by MoF Order No.189/2015, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119965&lang=ro#

that appropriate subordination levels are established to implement the delegated tasks. Managers shall be unbiased in taking decisions of power delegation.

A delegated power may be sub-delegated with the approval of the manager who made the initial delegation, but does not exempt the manager from the responsibility of performing the tasks resulting from the delegation of power.

Therefore, the responsibilities within public entities are delegated by indication, order, decision or by another from of internal decision and refer to specific operational tasks, including the financial ones. Managers should record in writing all delegated powers, confirming by the signatures of the delegator and delegated person.

The results of the monitoring process of MoF CHU[28] finds that an unresolved issue, both within the central and local bodies, is the incorrect delegation of powers. Thus, the powers are delegated, but there is no formalization of the respective process, or there is no correct understanding of what "delegation of powers" actually means.

5. How far are budgets aligned with decision-making authority within public sector organisations?

Annually, in accordance with the Law no. 181/2014 on public finance and fiscal responsibility[29]. and in accordance with the budgetary calendar, the Government approves the medium-term budgetary framework (MTBF).

MTBF is the tool that ensures the correlation of resource allocation with policy priorities. In the process of developing the MTBF, the top-down estimation of the general framework of resources available for financing public expenditures is ensured, in combination with bottom-up estimates of the costs of assumed / planned policies.

The policy priorities and spending limits contained in the MTBF document serve as a basis for public authorities to develop budget proposals / projects in the next budget year.

Sectoral policy priorities are updated annually with the development of sectoral spending strategies, a process that ensures the correlation between budget allocations and sectoral policy priorities.

The development of the MTBF is a complex process, which involves the contribution of different public entities and is carried out according to a properly coordinated decision-making mechanism.

28 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern
29 The Law No.181/2014 on public finances and budgetary-fiscal responsibility, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

Referring to the institutional roles in the MTBF process, the following entities and platforms are worth to be pointed out:

The Ministry of Finance is responsible for the organization and general coordination of the MTBF elaboration process, as well as providing methodological assistance throughout the whole process. At the same time, the Ministry of Finance leads the CBTM process and the general working groups ((i) macroeconomic, fiscal and resource policy and (ii) responsible for public spending policies and priorities) for the preparation of the CBTM, providing the necessary support to organize their activity. In turn, the CPA has sectoral working groups, with the participation of representatives of the Ministry of Finance.

The State Chancellery is responsible for the coordination and monitoring of the public policies development and implementation process at the national level. At the same time, in the process of drafting the MTBF, the State Chancellery has the following competencies and responsibilities: (i) participation in working groups and presentation of proposals to strengthen the link between the policy-making and resource allocation processes in the context of the MTBF; (ii) monitoring the establishment and implementation of sectoral policy priorities in accordance with the priorities set out in the national strategic planning documents.

The central public authorities (CPA) in the MTBF elaboration process are responsible for the elaboration and presentation of the sectoral expenditure strategies. In particular, specialized CPAs are responsible for (i) analyzing the implementation of existing sectoral spending programs and identifying measures to make them more efficient, (ii) setting sectoral policy priorities in accordance with the strategic planning documents and projected expenditure limits, (iii) estimating the costs of sectoral policies and allocating resources to programs within the sector, (iv) the allocation of the sectoral expenditure ceiling on the component budgets of the BPN and the CPA, within the sector for which it is responsible, (v) the finalization, approval and publication of the medium-term sectoral expenditure strategies.

In the process of preparing sectoral spending strategies, the specialized CPA works with other central and local public authorities, which manage budgetary resources within the respective sector. In order to facilitate cooperation and consultation with other relevant authorities or institutions, the specialized CPA shall establish and coordinate the work of the sectoral working groups.

Every line ministry/budget authorities provide budget proposals for next year, based on MTBF ceilings and agreed policy proposals, which are presented on a basis of budget classification, and is program based.

Following the publication of the budget law, the budget administrators shall initiate the allocation procedure and inform the public authorities of the approved allocation limits.

Following the launch of the allocation procedure by the budget manager, the public authorities are obliged: (i) to set resource and expenditure limits for the subordinated budgetary authorities / institutions, at subprogramme level; (ii) to complete the non-

financial part of the programs / sub-programs: purpose, objectives, narrative description; (iii) adjust, if necessary, the performance indicators at program / subprogramme level in line with the approved budget allocation limits.

Line ministries/budget authorities ensures the publication of sectoral expenditure strategies and annual budgets by areas of competence, as well as reports on their implementation.

C. Internal control

6. To what extent do the public sector internal controls arrangements focus on addressing systemic errors before they happen or on the identification/investigation of individual errors after-the-fact?

According to Art.11 of the Law No.229/2010 on PIFC[30], controls are organized and carried out in all processes and at all levels of the public entity in order to address the risks and ensure the achievement of the established objectives.

In all running processes of public entitites the following controls are performed, depending on the time:

- ex-ante controls, which are organized until an operation is carried out to prevent errors, irregularities, as well as inefficient or inappropriate activities;
- current controls, which are organized during an operation to detect and exclude errors or irregularities;
- ex-post controls, which are organized after an operation for the later detection of errors, irregularities, as well as inefficient or inappropriate activities.

Also, the National internal control standard no.10 "Control activities"[31] regulates more in detail this component of internal control. The results of monitoring of Internal control performed by MoF CHU[32] found that public entities implement ex-ante controls, oriented on addressing systemic errors before they happen, as well as ex-post controls to identify / investigate individual errors after they happen.

The most performed ex-ante controls reported by public entities are *authorization and approval* of operations and transactions, *duty segregation*, *access controls* on information, systems and assets, *exception reporting* controls that envisage the

30 Law No.229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#
31 The National Internal Control standards, approved by MoF Order No.189/2015, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119965&lang=ro#
32 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern

reporting of exceptions from the standard procedures, rejected as suspicious or atypical transactions.

As well, the public bodies perform ex-post controls as activity *verifications and supervision, reconciling, ordinary and ad-hoc checks, assets and liabilities inventory*, etc.

The nature of irregularities and errors found by internal auditors and external audit indicate that public entities need to strengthen their performed controls.

Additionally, is worth mentioning that existing laws, regulations, standards, intructions approved by Government and other administrative authorities regulate in more detail the procedures and controls in second line support processes (finance and accounting, public procurement, human resources management, assets administration, etc.). On the other hand, the primary operational processes are mostly regulated and rely on internal approved regulations and procedures.

7. Give a description of how the five components of the COSO 'Internal Control - Integrated Framework 2013' (control environment, risk assessment, control activities, information and communication, and monitoring activities) are expected to operate in the public sector.

According to Art.8 of the Law No.229/2010 on PIFC[33], the manager of the public entity implements the internal control system, in accordance with the National standards on internal control[34], taking into account the complexity and field of activity of the public entity, based on the following COSO components:

- control environment;
- performance and risk management;
- control activities;
- information and communication;
- monitoring and evaluation.

On the other hand, the National internal control standards provide main provisions for internal control, establishing the fields that need certain action to be taken in order to implement or strengthen the internal control. The Standards represent some generally accepted principles and provide a relevant framework for the development of efficient internal control systems. The standards are used both by the managers of the public entity, and by internal auditors as a tool to assess the internal control.

Starting from its responsibilities and tasks, the MoF through its CHU coordinates and provides training and support to public bodies, based on their needs and requirements.

33 Law No.229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#
34 The National Internal Control standards, approved by MoF Order No.189/2015, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119965&lang=ro#

Also, a national Internal Control Training Program is to be launched soon. Various on-the-job support activities are carried out by the MoF CHU, as this is a key capacity building pillar.

Another cornerstone is the self-assessment and reporting of internal control process, which is run annually, supplemented by the statement of managerial accountability. The national reporting system provides a broad overview of the state of affairs, which is further consolidated in the Annual PIFC Consolidated report[35]. As a result, the Government issues a Decision requiring related entities to implement corrective / development actions (plans).

Finally, by this cycle of Plan-Do-Check-Act MoF intends to continuously assess and develop the internal control systems according to good practices, which are in line with COSO and EU standards.

8. What steps have been identified/are being taken to remedy any differences between current and expected practice?

Despite the existence of a sound regulatory framework in the field of internal control, given that it has not fully proved its proper implementation and expected effectiveness. Therefore, the information and analysis delivered in Annual consolidated reports show unsignificant progess in implementation of internal control during last years. Consequently, new strategic priorities for the development of internal control are necessary to be established.

In order to orient the implementation of PIFC reform to expected practices, the improvement of mechanisms and instruments of managerial accountability are expected to be produced through:

- a clear division of roles and decisions taken by representatives of political power and high-ranking civil servants, so that political leaders to be exempted from operational management decisions, being responsible only for strategy and development directions;
- clear procedures for delegating authority for decision making and for use of resources, including financial / human;
- results-oriented planning systems, followed by objective assessment of achieved performance;
- competency framework for top and operational public managers, used in evaluating of individual performance;
- corresponding organizational and individual tone from the top on implementation of internal control;

35 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern

- raising awareness and support, focused on PIFC reform, including internal control.

As the authority responsible for PIFC policies as well as their centralized harmonization, during next year MoF CHU will focus its efforts on the following actions:

- elaboration and delivery of a Training Program for strengthening the professional capacities and competencies of public managers;
- increased coordination and integration with PFM reform, including in the areas of accounting, budgeting, public procurement;
- development of internal procedures for business continuity and emergency management, with an emphasis on the sustainability of critically important processes;
- establishing mechanisms for coordinating the internal control system within public entity, where appropriate, in subordinated entities;
- digitization of internal control reporting processes;
- ensuring the reaction to the results of the self-assessment of internal control, through actions to improve or correct the current situation.

Is to be mentioned that MoF currently assesses the PIFC Development Program (strategy) for years 2018-2020[36] in order to identify main development scenario and establish new strategic priorities for PIFC, based on a comprehensive evidence based analysis.

9. What requirements for ethical behaviour or standards of conduct (especially concerning potential conflicts of interest and how to deal with them) does the internal control system set?

According to article 9 of the Law No.229/2010 on public internal financial control (PIFC)[37], the manager of the public entity maintains a favourable control environment for the functioning of internal control through personal, professional integrity and ethical values of the management and staff. Secondary, the National internal control standard no.1 "Ethics and intergrity"[38] states that the public entity ensures that its staff know the relevant rules on ethical behavior, including the regulations on conflict of interest, prevention of fraud and corruption, reporting frauds and irregularities, inappropriate influence, as well as other integrity violations. Managers and employees

36 The Government Decision No. 124/2018 on PIFC Development Program for 2018-2020 and the action plan for its implementation, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=119173&lang=ro#
37 Law No. 229/2010 on public internal financial control, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#
38 MoF Order No. 189/2015 on National Internal Control Standards, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=119965&lang=ro#

of public entities maintain professional and personal integrity and carry out their activity conscientiously.

Requirements of specific ethical behavior are set in different Codes of conduct. In this regard is to be mentioned the Public Servant Code of Conduct, approved by Law No.25/2008[39]. The purpose of the Code is to establish rules of conduct in the public service and to inform the public about the conduct that the civil servant must adopt in order to provide quality public services; ensuring better administration in the public interest; contributing to the prevention and elimination of corruption in public administration and creating a climate of trust between citizens and public authorities.

Also, there are ethical codes for specific professions, like Code of ethics and conduct of Customs servant, approved by Government Decision No.1161/2016[40], Code of ethics of Court of Accounts, approved by CoA Decision No.19/2019[41], Code of ethics of internal auditor, approved by Government Decision No.557/2019[42], etc.

The results of MoF CHU monitoring[43] prove an increasing number o public entitities that conform to ethical and integrity requirements.

The Law No.82/2017 on integrity[44] regulates the the integrity domain in the public sector field of public sector integrity at the political, institutional and professional levels, the responsibilities of public entities, anti-corruption authorities and other competent authorities for consolidating and controlling public sector integrity, important areas for building private sector integrity in the process of interaction with the public sector and for sanctioning the lack of integrity in the public and private sectors. This law aims to build up integrity in the public sector and a climate of zero tolerance for corruption in public entities in the Republic of Moldova by:

- increasing the society's company's confidence in the fact that public entities and agents fulfill their mission in accordance with the public interest, including in the process of interaction with the private sector;
- the regulation of the compulsory measures for ensuring and consolidating the institutional and professional integrity;
- encouraging the denunciation of manifestations of corruption by public agents, as well as ensuring their protection against revengeretaliation;
- identifying and eliminating the risks of corruption risks within public entities;

39 The Law on the Code of conduct of public servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107130&lang=ro
40 The Code of ethics and conduct of Customs servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=111664&lang=ro#
41 The Code of ethics of Court of Accounts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=113899&lang=ro
42 The Code of ethics of internal auditor, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119035&lang=ro
43 Source: The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern
44 The Law No.82/2017 on integrity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120706&lang=ro#

- sanctioning public agents for manifestations of corruption and leaders of public entities for lack of institutional and professional integrity.

In accordance with the above mentioned Law, the climate of institutional integrity is cultivated by carrying out the following measures:

- hiring and promoting public agents based on merit and professional integrity;
- compliance with the legal regime of incompatibilities, hierarchical restrictions and advertising limitations;
- observance of the legal regime of the declaration of wealth assets and personal interests;
- observance of the legal regime of conflicts of interest;
- non-admission of favoritism;
- observance of the legal regime of gifts;
- non-admission, denunciation and treatment of inappropriate undue influences;
- non-admission, denunciation of manifestations of corruption manifestations and protection of integrity warningswhistleblowers;
- intolerance of towards integrity incidents;
- ensuring transparency in the decision-making process;
- ensuring access to information of public interest;
- transparent and responsible management of the public patrimony, of the reimbursable and non-reimbursable finances;
- observance of the norms of ethics and deontology;
- observance of the regime of restrictions and limitations in connection with the termination of the mandate, of the labor or service duty relations and with the migration of the public agents in the private sector (revolving doors).

The observance of legal regime of conflicts of interest is regulated by the article 14 of Law No.82/2017 on integrity. Therefore, in order to ensure the service of the public interest with impartiality and objectivity, public agents, together with the head of the public entity and, as the case may be, with the National Integrity Authority, are obliged to identify and treat conflicts of interest that arise in their professional activity, within the deadlines and according of the way provided in accordance with Law No.133/2016 on declaration of wealth assets and personal interests[45] and Law No.132/2016 on National Integrity Authority[46].

The public agent has the following obligations related to identification and treatment of conflicts of interest, which shall be fulfilled under the special legislation conditions:

45 The Law on declaration of wealth and personal interests, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128397&lang=ro#
46 The Law on National Authority on Integrity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128394&lang=ro#

- to declare in writing, within a deadline of three days, to the head of the public entity, about the real conflict of interest occurred within his/her professional activity, explaining the nature of the conflict of interest and the way in which it influences or may influence the impartial and objective fulfilment of his/her duties;
- to avoid the consumption of the conflict of interest by abstaining from exercising his/her duties to the extent in which they are threatened by the conflict of interest, until the settlement of the respective conflict.

The head of the public entity, has the following obligations related to the identification and treatment of conflicts of interest, which shall be fulfilled under the special legislation conditions:

- to not knowingly admit that the public agents from the entity he/she leads to fulfill their service duties being in situations of a real conflict of interest;
- to ensure the record keeping of the declarations of conflict of interest and to appoint the person responsible for this;
- to solve the declared conflict of interest in at most 3 days since the date he/she was informed about it, applying the settlement options provided in the special legislation, taking into consideration the interests of the public entity, the public interest and the legitimate interests of the public agent, the level and type of the position held by him/her, the nature of the conflict of interest, as well as other factors;
- to address the National Integrity Authority, when being unable to solve the conflict of interest declared by the public agent;
- to declare to the National Integrity Authority his/her own real conflicts of interest and to ensure the fulfillment by the public agents of their obligations;
- to inform every semester, in writing, the National Integrity Authority about the consumed conflicts of interest that were discovered and the undertaken measures.

D. Sound financial management

10. Is there legislation setting out the status within public sector organisations of finance officers and/or finance sections together with their role and methods of operation?

The Government may establish at *central level* the setting up of financial sections as autonomous internal subdivisions within the central apparatus of a ministry or other central administrative authority, according to Art.30 of the Law No.98/2012 on Central public administration[47] and Government Decision No.595/2017 on the approval of the

47 The Law No.98/2012 on Central public administration, available in Romanian at:

Standard structure of the Regulation on the organization and functioning of the ministry[48]. The Minister may delegate to the Secretary of State the power to coordinate the work of the financial subdivision. The framework regulation of the financial subdivision is set in the Government Decision No.433/2015 on the approval of the Financial Services Framework Regulation[49].

Within the *local public authorities*, the obligations of financial officers / finance sections arise from the role of local executive authorities and budgetary authorities / institutions provided in Art.33 and Art.34 of Law No.397/2003 on local public finances[50]. In addition, the Government Decision No.757/2004 on the approval of the Standard Regulation of the financial department of the administrative-territorial unit[51] regulates the structure, staff and organization of the activity of the finance department, functions, rights and responsibilities.

In addition, the general *tasks and status of the civil servants* working within these financial subdivisions, at both central and local levels, are regulated by the Law No.158/2008 on the civil service and the status of the civil servant[52].

Regarding the drafting, approval, execution and reporting of the components of the national public budget, the roles, competencies and responsibilities of public bodies are set in Art.18 – Art.25 of the Law No.181/2014 on public finances and budgetary-fiscal responsibility[53]. Also, the Methodological Set on the drafting, approval and modification of the budget approved by the MoF Order No.209/2015[54] contains a separate chapter as a guide on organizing the budget planning process deliberative and representative authorities (local councils), executive authorities, finance departments, budgetary institutions and other subdivisions within the local authorities.

The accounting and financial reporting competencies and responsibilities for bugetary entities are regulated by the Art. 13 of the Law No.113/2007 on the Accounting[55]. With respect to the law, the head of the entity whether creates an accounting section as internal subdivision managed by the chief accountant (authorized person) who reports

https://www.legis.md/cautare/getResults?doc_id=129125&lang=ro#

48 Government Decision No.595/2017 on the approval of the Standard structure of the Regulation on the organization and functioning of the ministry, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119194&lang=ro#

49 The Government Decision No.433/2015 on the approval of the Financial Services Framework Regulation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119299&lang=ro

50 The Law No.397/2003 on local public finances, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129334&lang=ro

51 The Government Decision No.757/2004 on the approval of the Standard Regulation of the financial department of the administrative-territorial unit: https://www.legis.md/cautare/getResults?doc_id=29435&lang=ro#

52 The Law No.158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130341&lang=ro#

53 The Law No.181/2014 on public finances and budgetary-fiscal responsibility, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

54 The MoF Order No.209/2015 on Methodological Set on the elaboration, approval and modification of the budget, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105131&lang=ro

55 The Law No.113/2007 on the Accounting, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=98782&lang=ro#

directly to the head of the entity or hands over the bookkeeping to a specialized organization or audit firm on a contractual agreement.

The specifics of the status of financial officers and/or financial sections within public entities, as well as their role and methods of operation, are established in the individual regulations and procedure of the public entity based on the activity processes and operations to be carried out by the financial section. Therefore, the head of the public entity establishes the tasks and the mode of operation and functioning of the financial sections/financial officers according to the regulatory framework in the field of budget planning, execution, reporting.

11. Do the public sector accounting and reporting systems cover all sources of revenue and all types of expenditure, together with any assets and/or liabilities?

As of January 1, 2016, accounting and financial reporting in the budgetary sector is performed in accordance with the new Chart of Accounts in the budgetary system and the Methodological Norms on accounting and financial reporting in the budgetary system, approved by MoF Order No.216/2015[56]. The new Chart of Accounts is aligned with the new economic classification of the budget and GFS 2001.

Reporting on budget execution is governed by the provisions of the Law No. 181/2014 on public finance and budgetary-fiscal accountability[57].

At the same time, the execution and reporting of the national public budget and its components is carried out through the treasury system, in accordance with the provisions of the MoF Order No. 215/2015 on the Methodological Norms on the cash execution of the national public budget components and extra-budgetary funds through the Single Treasury Account of the Ministry of Finance[58].

12. Do the public sector accounting and reporting systems provide sufficient and timely information to:

a) allow managers to control and manage commitments effectively,

Once the budget is approved, the allocation ceilings are entered in the State Treasury system for each budgetary entity. Each budgetary entity can plan and monitor the

56 The MoF Order No. 216/2015 on Chart of Accounts in the budgetary system and the Methodological Norms on accounting and financial reporting in the budgetary system, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129591&lang=ro#

57 The Law No.181/2014 on public finances and budgetary-fiscal responsibility, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

58 The MoF Order No. 215/2015 on the Methodological Norms on the cash execution of the national public budget components and extra-budgetary funds through the Single Treasury Account of the Ministry of Finance, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127792&lang=ro#

available funds and the balances remaining after commitments have been made as they are entered in the system throughout the year. The commitments are created through procurement contracts entered into by the spending units, including the contracts with individuals, which shall be mandatorily registered in the FMIS in State Treasury territorial units by attributing an unique registration number. MoF does not impose monthly distribution limits, therefore the budgetary entities have a significant degree of flexibility to plan and commit their expenditures up to the value of their annual allocation. The State Treasury controls the level of spending according to the available funds including commitments. Any new commitment incurred by the budgetary entity will not be allowed by the State Treasury if it exceeds the remaining balance of the annual budget appropriation. The ceiling commitments are regulated in Art. 66 of the Law No.181/2014 on public finances and budgetary-fiscal responsibility[59] and the MoF Order No.215/2015 on the Methodological Norms on the cash execution of the national public budget components and extra-budgetary funds through the Single Treasury Account of the Ministry of Finance[60].

Based on their individual spending forecasts within their annual budget allocation, budgetary entities are able to plan how they spend their budget for the whole year according to the timing for expenditure to deliver the services to be provided by them.

b) inform managers about financial implementation and performance during the year,

The budgetary authorities / institutions submit financial statements for the first semester, nine and twelve months according to terms and in the format prescribed by the chapter IV "Financial Reporting" of the MoF Order No. 216/2015 on the Chart of Accounts in the budgetary system and of methodological norms on the accounting and financial reporting in the budgetary system61. These reports contain:

- Balance sheet;
- Revenue and expenditure statement;
- Cash flow statement;

Budget execution report that includes data about the accrued expenditures, actual expenditures as well as accounts receivable and accounts payable, including those with the expired term (arrears), and they are used for the budget analysis.

These reports as well as real-time access by managers of institutions/authorities to information on revenue, actual expenditure, commitments, debts allow monitoring and

59 The Law No.181/2014 on public finances and budgetary-fiscal responsibility, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

60 The MoF Order No. 215/2015 on the Methodological Norms on the cash execution of the national public budget components and extra-budgetary funds through the Single Treasury Account of the Ministry of Finance, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127792&lang=ro#

61 The MoF Order No. 216/2015 on Chart of Accounts in the budgetary system and the Methodological Norms on accounting and financial reporting in the budgetary system, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129591&lang=ro#

making decisions on budget execution and analysis of the outlook and performance indicators of the institution/authority.

c) permit forecasting of income and expenditure,

Art.64 of the Law No.181/2014 on public finance and budgetary-fiscal accountability[62] provides that the domestic revenue forecast is prepared on the basis of the revenue forecasts submitted and regularly updated by the revenue administrators. The expenditures are forecasted on the basis of the financing needs estimated by the spending units.

After the annual budget has been approved, each budgetary authorities / institutions has to submit its forecasts for spending needs and revenues collected for the whole year within 45 days. Once approved, these are broken down into months and further into weeks and days, and reflect the expenditure priorities of individual ministries and their spending units. These are updated on a daily basis given the performance execution and consolidated on a monthly basis. A daily analysis of the budget execution is performed by the State Treasury and depending on this analysis, the forecast is updated.

At the end of each month, the annual forecast (divided by months) is updated according to the execution of the budget and the amendments to the Annual Budget Law. The deviations from the approved monthly forecast and their main causes are examined, the result being presented to MoF management.

d) keep financial commitments within budget limits,

The commitment management process is regulated by the Art.66 of the Law No.181/2014 on public finances and budgetary-fiscal responsibility and the MoF Order No.215/2015 on the Methodological Norms on the cash execution of the national public budget components and extra-budgetary funds through the Single Treasury Account of the Ministry of Finance.

Budgetary authorities/institutions are responsible for the assumption, payment, recording and reporting of commitments in accordance with the legislation governing public procurement and other regulations. The assumption of commitments by budgetary authorities/institutions is allowed only for the purposes and within the limits of budgetary allocations, taking into account the liabilities recorded at the end of the previous year.

The management of commitments is implemented within the IFMIS. The mechanism ensures the record of contracts registered in the State Treasury:

- the amount of the reserved contract allocations;

62 The Law No.181/2014 on public finances and budgetary-fiscal responsibility, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

- the amount executed per contract;
- the balance of reserved and available allocations per contract.

The control implemented in IFMIS does not allow the entry of contracts whose value exceeds the available allocation balances.

e) ensure that the use of financial resources, e.g. through procurement operations or human resource costs, is in accordance with the existing budget, and

The revenues of the component budgets of the national public budget and the payments of the state and local budgets are made through the treasury system according to the cash method, in accordance with Art.63 of the Law No.181/2014 on public finances and budgetary-fiscal responsibility.

Budgetary authorities/institutions make payments within the limits of the approved budget allocations and in accordance with the cash forecasts of the budgets.

MoF developed the Regulation on State Budget Cash Management, approved by MoF Order No.3/2017, which stipulates the rules and procedures aimed at ensuring efficient liquidity management.

Institutions shall submit payment documents electronically signed by the responsible persons to the IFMIS. IFMIS covers all State Treasury operations and is the main factor in ensuring proper authorization and control processes for expenditure, ensuring that budgetary authorities/institutions do not exceed the approved budgetary limits and their payments are executed within the available cash balance. Automated control is in place for both the verification of the balance of allocations and the balance of funds on the bank account.

f) allow an audit trail of key financial decisions, including those relevant to Instrument for Preaccession Assistance-funded programmes?

MoF has data for all sub-sectors of general Government. Each year, according to approved Work Program of Statistics, MoF submits the following information to the National Bureau of Statistics:

Information on the execution of the total national public budget, including separately by types of budgets (state budget, state social insurance budget, compulsory health insurance funds and local budgets) by income and expenditure, according to economic and functional classification – annually;

Information on the execution of the state budget and local budgets by revenue and expenditure according to economic and functional classification – quarterly and annually;

Information on the execution of local budgets in territorial profile by income and expenditure, according to economic and functional classification – annually;

Information on fixed assets, (calculated) amortization of fixed assets and depreciation of intangible assets of central Government – annually;

Information for the Special Data Dissemination Standard, containing data on revenue, expenditure, deficit, sources of deficit financing, and public debt – monthly and annually.

13. Describe any centralised ex-post checks on receipts or expenditure.

The Financial Inspection is a specialized administrative authority subordinated to the Ministry of Finance, whose mission is to protect the public financial interests of the state by exercising, according to the principles of transparency and legality, the centralized financial control on the compliance with the legislation of the operations and transactions related to the management of the resources of the national public budget and the public patrimony.

The Financial Inspection carries out its activity under Art.78 of the Law No.181/2014 on public finances and budgetary-fiscal responsibility[63] and Government Decision No.1026/2010 on the organization on the activity of financial inspections[64].

The basic function of the Financial Inspection consists in the financial inspection of the operations and transactions regarding the observance of the normative framework in the budgetary and economic-financial field.

In carrying out its duties, the Financial Inspection performs financial inspections at:

- budgetary authorities / institutions;
- autonomous public authorities/institutions and independent budgetary authorities – on aspects of fairness in use of financial appropriations from national public budget, in the management / use of public patrimony, as well as the compliance with rules applicable to public procurement, provided by Law No.131/2015 on public procurement[65];
- state / municipal enterprises, commercial companies in whose share capital the state holds at least 25 percent, as well as their affiliates – on aspects of the management / use of financial resources and / or public patrimony of the budgetary authorities / institutions;
- other individuals and legal entities – on aspects of management and use of financial resources and administration of public patrimony of the above specified entities.

63 Law No.181/2014 on public finances and budgetary-fiscal responsibility, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro
64 Government Decision No.1026/2010 on the organization on the activity of financial inspection, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128909&lang=ro#
65 Law No.131/2015 on public procurement, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=131046&lang=ro#

Additionally, basic responsibilities of the Financial Inspection are:

- elaborates the program of activity, which is coordinated with MoF;
- prepares and presents the results of the financial inspection activity to the Ministry of Finance and interested bodies;
- adopts decisions on the application of financial penalties;
- transmits the materials of the financial inspections and references regarding the damages caused to the law enforcement bodies;
- submits the executory prescriptions on solving irregularities found during the financial inspection to the managers of entities subject to financial inspection, and monitors their execution;
- prepares the annual report on the results of the financial inspection activity and submits it to the Ministry of Finance;
- performs other financial inspection duties in accordance with the law.

In order to equally apply the basic norms regarding the organization and development of the financial inspection activity, the Financial Inspection is guided by the MoF Order No. 172/2012 on Financial Inspection (Control) Standards[66], which regulate the planning of inspection activity, reporting to the higher hierarchical body, as well as the manner of informing and communicating with the inspected entities, conducting financial inspections, communicating and reporting the results, and following them up.

E. Internal Audit

14. Does the internal audit legislation define operational arrangements for internal audit, including the level of decentralisation, minimum audit unit staffing requirements and standards to be used; as well as independence, contents of audit charters, planning requirements and freedoms, reporting arrangements, codes of ethics, certification arrangements, and continuous professional development?

According to Article 49 of the Moldova – EU Association Agreement, in Republic of Moldova the PIFC concept is organized in three pillars – Internal control, **Internal audit** and Central harmonization unit. Responsibilities on implementing and related competences are stated in the Law No.229/2010 on public internal financial control (PIFC)[67], mandatory for budgetary authorities and institutions at central and local levels, public independent institutions, autonomous bodies, SOEs, joint stock companies with full or majority public capital, as well as independent entities and authorities responsible for regulating an economic and / or social field.

66 The MoF Order No. 172/2012 on the approval of the Financial Inspection (Control) Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=13044&lang=ro#
67 Law No. 229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#

The internal audit function in the public sector is governed by the following elements of the regulatory framework:

Law No. 229/2010 on PIFC;

Government decision No. 556/2019 on the Regulation on the achievement, confirmation, and development of professional qualification in the field of internal audit in the public sector[68];

Government decision No. 557/2019 on the Code of Ethics of the internal auditor and the Internal Audit Charter[69];

Government decision No. 617/2019 on the Regulation on the evaluation of the quality of the internal audit activity in the public sector[70];

MoF Order No. 153/2018 on National Internal Audit Standards[71];

MoF Order No. 159 /2020 on Regulation on internal audit activity as shared service in public sector[72];

MoF Order No. 160/2020 on Regulation on internal audit activity on contractual basis in public sector[73];

MoF Order No.161/ 2020 on the Internal Audit Norms in the public sector[74];

MoF Order No. 105/2013 on the Methodological Norms for internal audit in the public sector (only the Supplementary Instructions part is in force)[75];

MoF Order No. 176/2019 on the approval of the regulation on the reporting of internal audit activity in the public sector[76].

68 Government decision No. 556/2019 on the Regulation on the achievement, confirmation, and development of professional qualification in the field of internal audit in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119034&lang=ro

69 Government decision No. 557/2019 on the Code of Ethics of the internal auditor and the Internal Audit Charter, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119035&lang=ro

70 Government decision No. 617/2019 on the Regulation on the evaluation of the quality of the internal audit activity in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119615&lang=ro#

71 MoF Order No. 153/2018 on National Internal Audit Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110376&lang=ro#

72 MoF Order No. 159 /2020 on Regulation on internal audit activity as shared service in public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=124999&lang=ro#

73 MoF Order No. 160/2020 on Regulation on internal audit activity on contractual basis in public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125000&lang=ro

74 MoF Order No.161/ 2020 on the Internal Audit Norms in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125001&lang=ro

75 MoF Order No. 105/2013 on the Methodological Norms for internal audit in the public sector (only the Supplementary Instructions part is in force), available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=55043&lang=ro#

76 MoF Order No. 176/2019 on the approval of the regulation on the reporting of internal audit activity in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119895&lang=ro#

MoF has also drafted and published on its official web page a Manual on internal audit[77], which comprise a set of guidelines recommended for professionals engaged in performing specific tasks related to internal audit missions.

According to Art.3 and Art.17 of the Law No.229/2010 on PIFC, internal audit is defined as an independent and objective activity providing the management assurance and consultancy, carried out to improve the public entity's activity. It has the purpose to help the public entity to achieve its objectives, evaluating through a systematic and methodical approach the financial management and control system and providing recommendations for enhancement of its efficacy. The goal of internal audit is to provide consultancy and objective assurance on the effectiveness of the internal control system, providing recommendations for its improvement and contributing to the improvement of public entity activity. At the same time, the object of internal audit encompasses all activities and operational processes.

The requirements for the establishment of internal audit units are provided in Art.19 of Law No.229/2010 on PIFC. Thus, by law it is mandatory to establish an independent internal audit structure by all ministries, National Social Insurance House, National Health Insurance Company – with a minimum 3 staff members, as well as, by local public authorities of second level – with a minimum 2 staff members.

Any other public entity subordinated directly to the Government and to the line ministries is entitled to create its own internal audit structure, with the consent of the higher hierarchical body based on the Government's Resolution. Autonomous public entities have the right to establish internal audit structure in line with the law and its own regulations.

Public entities, other than the ones that are obliged by law to establish an independent internal audit structure, as an alternative can outsource the internal audit function or arrange it as a shared service in partnership with other entities to get economy of scale or compensate the lack of skilled personnel in the public sector and reduce staff turnover.

Other requirements on organizing the Internal audit activity within public entities state that the internal audit subdivision is established under the direct subordination of the manager of the public entity and reports directly to him. The internal audit subdivision is sized based on the volume of activity, so as to ensure the systematic audit of the entire object of the activity of the public entity.

Also, the internal audit subdivisions within the hierarchically superior public entities perform internal audit in the subordinated public entities that do not have an own internal audit subdivision.

Some additional evidence and conclusions regarding the framework and organization of internal audit activity in Republic of Moldova are revealed by the "*Republic of Moldova: Technical Assistance Report-Country Governance Assessment" Report* (point 130), published by the IMF, on July 26, 2021[78].

77 The Manual on internal audit, available in Romanian at:
https://mf.gov.md/sites/default/files/documente%20relevante/Manual%20CIM_03.06.2020.pdf
78 Republic of Moldova: Technical Assistance Report-Country Governance Assessment, available in English at:
https://www.imf.org/en/Publications/CR/Issues/2021/07/26/Republic-of-Moldova-Technical-Assistance-Report-Country-Governance-Assessment-462578

Art.23 – Art.25 of the above mentioned Law No.229/2010 on PIFC, as well as Internal Audit Charter, approved by Government Decision No. 557/2019, state the main competences, rights and obligations of the manager of public entity, audited unit and internal auditors.

The internal audit Charter also:

- defines the mission, competencies and responsibilities of the internal audit subdivision;
- establishes the position of the internal audit subdivision within the public entity, including the functional reporting relationship of the head of the internal audit activity;
- specifies the object of the internal audit activity;
- authorizes the access of internal auditors to records, personnel and physical assets relevant for the execution of the internal audit engagements.

There is also a Code of Ethics approved by Government Decision No.557/2019 which stipulate a set of principles and rules of conduct that apply to all persons conducting internal audits in the public sector. The purpose of the Code is to promote the ethical culture and create the ethical framework necessary to carry out the internal audit activity, so as to ensure the fulfillment of the duties of persons who perform internal audit conscientiously, with professionalism, loyalty and fairness.

In carrying out their activity, in accordance with the Code of Ethics, the internal auditors shall respect the following fundamental principles:

- *integrity* - the persons performing the internal audit must be fair, honest and incorruptible, the integrity being the basis of the trust and credibility given to their professional reasoning;
- *objectivity* - the persons performing the internal audit show the highest level of professional objectivity in collecting, evaluating and communicating information about the evaluated activity or process, ensuring a balanced assessment of all relevant circumstances, without being unjustifiably influenced by one's own interests or those of others in formulating opinions;
- *competence* - the persons performing the internal audit apply the knowledge, professionalism, skills and experience necessary in the exercise of their duties;
- *confidentiality* - the persons performing the internal audit respect the value of the information they receive and do not provide information without proper approval, unless there are legal or professional obligations in this regard.

The National internal audit standards, approved by MoF Decree No.153/2018, are developed and comply with the International Professional Practices Framework (IPPF) issued by the Institute of Internal Auditors. The Standards are a set of mandatory, principle-based requirements, including statements on the basic requirements for the professional practice of internal audit and for assessing its effectiveness, which apply at the organizational and individual level, as well as interpretation notes, which clarify the used terms or concepts. The Standards fall into two basic categories: attribute standards and performance standards.

In their internal audit engagements delivery, the internal auditors follow the Internal audit norms, approved by MoF Decree No.161/2020. The Norms aim at establishing the general framework for organizing and carrying out the internal audit activity in public entities, as well as the necessary guidance for the practical application of the provisions of the Code of Ethics, the Internal Audit Charter and the National Internal Auditing Standards. They envisage a risk-based audit planning that guides the risk assessment and the internal review process to ensure quality control of the process. The Norms clearly define the process of internal audit report preparation and its issuance to relevant parties. The main findings and recommendations are discussed with the auditee, whose view is expressed in the final internal audit report.

According to Art.27 of the Law No.229 on PIFC, it is forbidden to interfere in the internal audit activity in defining its area of applicability, carrying out the activity and communicating the results. Moreover, the internal auditors are not entitled to:

- to perform operational tasks of the public entity, as well as other activities that may be subject to internal audit;
- to manage the activity of the personnel of the public entity, except for the cases of its participation in internal audit engagements;
- to carry out financial inspections (revisions);
- to investigate fraud;
- to use for personal purposes information obtained during internal audit engagements.

In order to ensure the quality of the internal audit profession, MoF has put in place a system of national certification for the internal auditors, which is regulated by Government Decision no. 556/2019 for the approval of the Regulation on acquiring, confirming and developing professional qualification in internal audit in the public sector. It is important to be mentioned that the Art.19 (para. 6) of Law No.229/2010 on PIFC, as well as the Unique Classifier of public positions, approved by Law No.155/201179, establish the obligation of the head of the internal audit subdivision and the principal internal auditor to hold a certificate of professional qualification in the field of internal audit in the public sector, issued by the Ministry of Finance, or a certificate of qualification with international recognition in the field of internal audit.

The professional certification process is organized by the Ministry of Finance in order to meet the competence requirements (knowledge and skills) necessary to perform the duties of the internal audit function, by training and validation of professional qualification in the field. The professional certification is based on an Internal Audit Training Program, structured on three levels of complexity: basic level, intermediate level and advanced level. Therefore, the certificate of professional qualification in the field of internal audit in the public sector is issued by the Ministry of Finance to persons who have demonstrated the level of knowledge held by passing the assessment exams for the each of the three levels.

79 The Law No.155/2011 on Unique Classifier of public positions, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130407&lang=ro#

In order to maintain the certificate of professional qualification, its holder is obliged to improve his/her knowledge, skills and other necessary competencies by participating in various forms of continuous professional development in the field of public internal financial control, public finance management, public administration and / or activity. the public entity in which it carries out the internal audit activity, with a duration of at least 40 academic hours per year.

15. Are all public sector organisations required by legislation to establish an internal audit function? If not, please provide details of the criteria which allow those organisations not to do so. Please further explain how those organisations that are not required to establish their own internal audit function can access internal audit services.

The requirements for the establishment of internal audit function are provided in Art. 19 of Law No.229/2010 on PIFC[80]. Thus, by law it is mandatory to establish an independent internal audit structure by all ministries, National Social Insurance House, National Health Insurance Company – with a minimum of 3 staff members, as well as, by all local public authorities of second level – with a minimum of 2 staff members.

Any other public entity subordinated directly to the Government and to the line ministries is entitled to create its own internal audit structure, with the consent of the higher hierarchical body based on Government Decision. Autonomous public entities have the right to establish internal audit structures in line with the law and its own regulations.

Public entities, other than the ones that are obliged by law to establish an independent internal audit structure, as an alternative can outsource the internal audit function or arrange it as a shared service in partnership with other entities to get economy of scale or compensate the lack of skilled personnel in the public sector and reduce staff turnover.

In addition, Art.19 (para.7) of Law No.229/2010 on PIFC stipulates that the internal audit structure within the hierarchically superior public entities hava to perform internal audit in the subordinated public entities that do not have the own internal audit structure.

80 Law No. 229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#

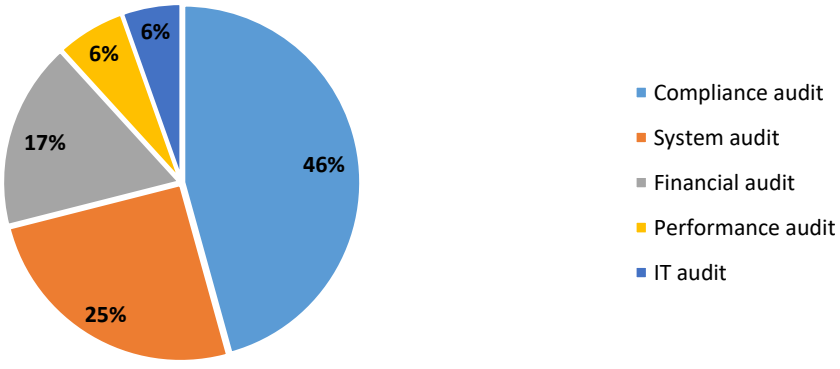
16. What types of audits are performed by internal audit units (e.g. compliance audits, systemsbased audits, IT and performance audits)? Please provide an estimate of the overall proportions of each type of audit undertaken.

Art.21 of the Internal Audit Norms approved by MoF Order No.161/2020[81] defines types of internal audit engagements:

- *System audit*, which considers internal control within a system, process, or activity, to assess the effectiveness and efficiency of its functioning;
- *Compliance audit*, which checks compliance with the regulatory framework, policies, and applicable procedures and, as appropriate, the need to improve controls;
- *Financial audit*, which evaluates the appropriate and effective functioning of the financial systems controls;
- *Performance audit*, which looks at the use of resources within a single program, function, operation, or system to determine if resources are used in the most economic, efficient, and effective way to accomplish tasks;
- *Information technology audit*, considering the effectiveness of internal control over information systems.

The results of the monitoring performed by MoF CHU[82], reveal for year 2021 the types of performed audit engagements. Therefore, the largest share is compliance audits (46%), while the lowest are the IT audit (6%) and performance audits (6%). In this context, the lack of knowledge and skills needed to carry out those audits is reflected.

Figure 1.
Types of performed internal audit engagements during 2021 year



81 MoF Order No.161/ 2020 on the Internal Audit Norms, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125001&lang=ro

82 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern. The PIFC annual consolidated report for year 2021 will be available on MoF website starting with June 2022.

17. Do any internal auditors perform other functions beside internal audit?

According to Art.27 of the Law No.229 on PIFC, it is forbidden to interfere in the internal audit activity in defining its area of applicability, carrying out the activity and communicating the results. Moreover, the internal auditors are not entitled to:

- to perform operational tasks of the public entity, as well as other activities that may be subject to internal audit;
- to manage the activity of the personnel of the public entity, except for the cases of its participation in internal audit engagements;
- to carry out financial inspections (revisions);
- to investigate fraud;
- to use for personal purposes information obtained during internal audit engagements.

Still, according to MoF CHU monitoring results[83], in the part related to the accomplishment of operational tasks or other activities that can be the object of the internal audit, internal audit structures (around 15%) reported their involvement in several operational tasks, such as monitoring and reporting to management on the implementation of recommendations of the Court of Accounts and Financial Inspection, as well as, the elaboration of internal procedures and regulations.

Also, according to National Internal Audit Standard 1112, approved by MoF Order No.153/2018[84], if the manager of the internal audit structure has or is required to be responsible outside the internal audit function, certain measures of protection or care must be taken to limit the undermining of independence or objectivity. The head of the internal audit structure may request additional roles and / or responsibilities outside the internal audit function, such as responsibility for compliance verification or risk management activities. These roles and responsibilities may undermine, in fact or in appearance, the organizational independence of the internal audit activities or the individual objectivity of the internal auditor. Protective measures disclose those oversight activities undertaken by the entity's manager to address these potential deficiencies, and may include activities such as periodic assessment of reporting lines and responsibilities to obtain assurance regarding additional areas of responsibility.

83 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern. The PIFC annual consolidated report for year 2021 will be available on MoF website starting with June 2022.
84 MoF Order No. 153/2018 on National Internal Audit Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110376&lang=ro#

18. What is the procedure for consultation/submission of internal audit reports?

The procedure for consultation / submission of internal audit reports is regulated in the National internal audit standards, approved by MoF Decree No.153/2018[85], which are developed and comply with the International Professional Practices Framework (IPPF) issued by the Institute of Internal Auditors. The following of national standards regulate the reporting of internal audit engagements, from the series 2400 "Comunicating results":

- 2410 "Comunication criteria"
- 2420 "Quality of communications"
- 2430 "Use of "Conducted in Conformance with the Standards"
- 2440 "Diseminating results"
- 2450 "General opinions"

To detail the Standards, MoF has developed and approved a set of Internal audit norms[86]. The norms prescribe the whole procedure related to reporting the internal audit engagements.

Therefore, internal auditors must communicate the results of the internal audit engagements. Communications must be precise, objective, clear, concise, constructive, complete and timely.

The final communication of the results of the internal audit engagements include the conclusions, audit recommendations, and action plan for their implementation. Where appropriate, the internal audit should provide an opinion that takes into account the expectations of the entity's manager and other internal audit stakeholders, and is supported by sufficient, reliable, relevant and useful information.

Also, during the communication of the results the internal auditors are encouraged to recognize the identified positive parts.

The audited unit submits written comments to the internal audit structure, on audit findings and recommendations, within the established deadlines. Acceptance or non-acceptance of the audited unit's comments is reflected or argued in the audit report.

The Head of Internal Audit is responsible for verifying and approving the final communication of the internal audit engagement, prior to its issuance, as well as for deciding how to disseminate it and its recipients.

If the audit report contains a material error or omission, the Head of Internal Audit shall communicate the corrected information to all parties who received the original audit report.

85 MoF Order No. 153/2018 on National Internal Audit Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110376&lang=ro#
86 MoF Order No.161/ 2020 on the Internal Audit Norms, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125001&lang=ro

The Head of Internal Audit is responsible for communicating the final results to the parties who can ensure that those results will be properly addressed. Where the results of the internal audit engagement are transmitted to parties outside the public entity, the disclosure of the results should include information on restrictions on their distribution and use.

If the manager of the public entity accepts the risk of not taking any action regarding some audit findings / recommendations, the head of the internal audit structure assesses that risk, communicates in writing and discusses this with the manager of the public entity.

19. How is quality assurance of internal audit carried out?

Each internal audit structure must have a Quality Assurance and Improvement Program, approved by the manager of the public entity, to assess the performance of the internal audit activity as well as its compliance with National Internal Audit Standards and to evaluate the application of Code of Ethics by internal auditors. Requirements to the process of ensuring quality are regulated by the National Internal Audit Standard 1300[87] and the Regulation on the evaluation of the quality of the internal audit activity in the public sector approved by the Government Decision No. 617/2019[88].

Ongoing monitoring, *periodic self-assessments* and *external assessment* of the internal audit activity are an integral part of the Quality Assurance and Improvement Program.

Continuous monitoring of the internal audit activity is an integral part of the day-to-day supervision, verification and measurement of the internal audit activity. The head of the internal audit structure ensures continuous monitoring by:

- supervision activity;
- the evaluation of the internal audit engagement by the head of the internal audit structure, including by the audited unit;
- evaluation of key performance indicators of the internal audit activity.

The self-assessment is performed by the head of the internal audit structure or by a team of internal auditors and involves a complex examination of the internal audit activity. The self-assessment consists of:

- the evaluation of the compliance of the internal audit activity with the provisions of the standards, Code of Ethics and the Internal Audit Charter;

87 MoF Order No. 153/2018 on National Internal Audit Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110376&lang=ro#

88 Government decision No. 617/2019 on the Regulation on the evaluation of the quality of the internal audit activity in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119615&lang=ro#

- reviewing the compliance of the working documents with the provisions of the standards and of the procedures for carrying out the internal audit activity;
- evaluation of the results of the internal audit activity in relation to the established objectives / performance criteria, as part of the Quality Assurance and Improvement Program.

The external assessment is conducted once in five years by qualified independent assessor or by an assessment team outside the public entity. The results of the program implementation are communicated by the manager of internal audit structure to the manager of the public entity.

Based on Art.29, para (c) of the Law No.229/2010 on PIFC[89], MoF performs the external evaluation of the quality of the internal audit activity according to an annual plan, elaborated based on the analysis of risk factors and requests received from public entities, approved by the Minister of Finance and brought to the attention of the public entities concerned.

The table below summarises the external quality review performed by the MoF in various budgetary entities.

External Quality Assessment of internal audit performed by MoF during 2018-2021

Year	Administrative Authorities and Public Entities, whose IA unit have been subject to External Quality Assessment
2018	- Customs Service - National Social Insurance House - Ministry of Economy and Infrastructure - Ministry of Education, Culture and Research
2019	---
2020	- State Tax Service
2021 (Q1-Q3)	- National Health Insurance Company - General Inspectorate of Police

According to MoF CHU monitoring results[90], in 2021 73% of internal audit structures within the public entities subordinated to the Government and local authorities drafted and approved a Quality Assurance and Improvement Program.

At the same time, the Quality Assurance and Improvement Programs lose their relevance for internal audit structures staffed with only one person, because do not ensure proper supervision of the internal audit activity. It is to be mentioned that as of

89 Law No. 229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#

90 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern. The PIFC annual consolidated report for year 2021 will be available on MoF website starting with June 2022.

December 31, 2021, around 67% of internal audit structures out of the reporting ones, consisted of 1 staff member.

20. Please provide a general overview of the monitoring/follow-up procedure to ensure that agreed internal audit recommendations are implemented?

The procedure for monitoring / follow-up of implementation of audit recommendations is regulated in the National internal audit standards, approved by MoF Decree No.153/2018[91], which are developed and comply with the International Professional Practices Framework (IPPF) issued by the Institute of Internal Auditors. The national standard 2500 "Monitoring of actions after results communication". In this regard, the Head of Internal Audit structure establishes a process for following-up the implementation of audit recommendations in order to monitor and ensure that the actions of operational managers have been carried out effectively or that the manager of the public entity has accepted the risk of not taking action.

To detail the Standards, MoF has developed and approved a set of Internal audit norms[92]. The norms prescribe the whole procedure related to reporting the internal audit engagements. Thus, the monitoring of implementation of audit recommendations is performed systematically in one or more of the following ways, depending on the priority of the audit recommendations:

- separate activity aimed at monitoring the implementation of high priority audit recommendations;
- as part / objective of another audit engagement;
- follow-up audit.

The head of the internal audit structure agrees with the manager of the public entity on how to monitor and report on the implementation of the audit recommendations. This mechanism includes quarterly and annual reporting on the implementation of audit recommendations.

As a result of the process of following-up the implementation of audit recommendations, the head of the internal audit structure determines the extent to which the strategic plan and the annual plan of the internal audit activity will be revised to reflect changes in the public entity's overall risk exposure.

According to results of monitoring performed by MoF CHU[93], the internal audit structures have follow-up systems for monitoring the implementation of

91 MoF Order No. 153/2018 on National Internal Audit Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110376&lang=ro#
92 MoF Order No.161/ 2020 on the Internal Audit Norms, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125001&lang=ro
93 *Source:* The Public internal financial control annual consolidated Reports, available in Romanian at: https://mf.gov.md/ro/content/controlul-financiar-public-intern. The PIFC annual consolidated report for year 2021 will be available on MoF website starting with June 2022.

recommendations, with their records, the indication of the implementation deadlines, and responsible persons.

The IMF states in its Report "Republic of Moldova: Technical Assistance Report-Country Governance Assessment" (point 131, published on July 26, 2021[94]) that the resources available for internal audits are limited, but the internal audit recommendations are well followed upon.

F. Central Harmonisation Units (CHU)

21. Is there a unit charged with developing common standards, harmonising practises, and coordinating the implementation of internal control and internal audit. What is the legal basis of their responsibilities? To whom does the CHU report?

The Public Financial Internal Control (PIFC) system has been developed in Moldova to provide a structured and operational model to assist national authorities in redesigning their own internal control environment and to update public sector control systems in line with international standards. According to Art.29 of the Law No.229/2010 on PIFC[95], MoF is responsible for PIFC designing and modelling. It performs the following activities through the Public Internal Financial Control Policy Division (MoF CHU):

- Develops, promotes and monitors PIFC policies;
- Develops, updates, and harmonizes the PIFC regulatory framework;
- Monitors and evaluates the quality of internal audit activity, as well as internal control systems;
- Prepares and submits to the Government, by June 1 for approval the PIFC annual consolidated report for the previous year;
- Coordinates and organizes training on internal control and internal audit;
- Develops certification mechanisms in internal audit in the public sector;
- Regulates the sharing and outsourcing of internal audit activity;
- Collaborates with international bodies and specialized institutions in the field of PIFC.

The PIFC policy division is subordinated and reports to State Secretary in charge for PIFC.

The PIFC Council is established as a professional body with a consultative role under the Ministry of Finance, in order to support the efficient implementation of PIFC. The

94 Republic of Moldova: Technical Assistance Report-Country Governance Assessment, available in English at: https://www.imf.org/en/Publications/CR/Issues/2021/07/26/Republic-of-Moldova-Technical-Assistance-Report-Country-Governance-Assessment-462578

95 Law No. 229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#

PIFC Council consists of eleven members (experts in the fields of public finance and law, managers in the private sector, representatives of public bodies such as the Court of Accounts and State Chancellery, representatives of academia, representatives of non-governmental organizations and civil society).

The roles of the PIFC Council are set in the Art.30 of the Law No.229/2010 on PIFC and Regulation of organizing and functioning of the PIFC Council, approved by MoF Order No.140/2018[96]. Therefore, main roles are:

- to approve the draft normative acts in the field of PIFC;
- to approve the annual consolidated report on PIFC;
- to examine the problematic aspects regarding the functioning of PIFC system and submitting proposals for their remedy.

22. How do the CHUs ensure that their guidance is adhered to? Are compliance reviews performed for this purpose?

The Standards, Norms and other Regulations in PIFC area, developed by MoF CHU and approved by Government / MoF, are manadatory for all budgetary authorities and institutions at central and local levels, public independent institutions, autonomous bodies, SOEs, joint stock companies with full or majority public capital, as well as independent entities and authorities responsible for regulating an economic and / or social field.

The MoF CHU monitors the PIFC development and implementation of all guidance through mechanism of annual self-assessment and reporting on internal control and internal audit. The received reports from central and local public bodies are subject of compliance reviews and analysis and then compiled in a Consolidated report delivered to the Government.

Additionally, in order to perform compliance reviews, based on Art.29, para (c) of the Law No.229/2010 on PIFC[97], MoF performs the external assessments of the quality of the internal audit activity according to an annual plan, elaborated based on the analysis of risk factors and requests received from public entities. The external quality assessment process is regulated by the Government Decision No.617/2019 on the Regulation on the evaluation of the quality of the internal audit activity in the public sector[98].

96 MoF Decree No.140/2018 on the organization and functioning of PIFC Council, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110458&lang=ro
97 Law No. 229/2010 on public internal financial control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125252&lang=ro#
98 Government decision No. 617/2019 on the Regulation on the evaluation of the quality of the internal audit activity in the public sector, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119615&lang=ro#

At a higher review level there is the external audit, carried out by the Court of Accounts, as the Supreme Audit Institution of Republic of Moldova. In each external audit mission, the Court of Accounts must identify, test and evaluate the existence and functionality of the internal control of the audited entities. In this regard, the Court of Accounts examines the operational and support processes, as well as the controls, to ensure that the audited entity has a robust internal control system that is capable to manage the risks of fraud, error or corruption.

This mandatory internal control assessment is performed by the Court of Accounts through comprehensive tests related to the types of income / expenditure to assess the functionality of key controls established by the entity. If these controls are strong, integrated into the day-to-day activity, ensure the integrity, reliability and legality of transactions and payments, then the external audit obtains greater assurance from the internal control and the external auditor will perform fewer substantive tests. The external audit activity is governed by the Law No.260/2017 on the organization and functioning of Court of Accounts[99].

23. Does the CHU prepare an annual review or a report on the state of implementation of internal control and internal audit? Is the annual review/report presented for discussion by the government?

Please describe arrangements to ensure that government conclusions or recommendations on the review/report are actioned and followed up. Is the annual review/report published?

Annually, the public entities conduct self-assessments of the effectiveness of internal control and the quality of internal audit activity for previous year, according to criteria and templates approved by MoF. Subsequently, the public entities submit to MoF CHU the self-assessment annual reports by end of March. The received information is thoroughly reviewed and analyzed, and serves as basis for development of the Annual PIFC Consolidated Report covering both internal control and internal audit, for central and local levels. The report is published on the official web page of MoF[100].

According to Art.29 of the Law No.229/2010 on PIFC, the Annual Consolidated PIFC Report, signed by the minister of finance, is submitted by June 1, to Government for discussion in a meeting and approval. Based on findings, conclusions and recommendations within the report, the Government issues an Ordinance, which is then directed to all related public entities to act upon. The last recommendations from the Annual consolidated report were addressed by the Government Ordinance No.47/2021[101].

99 The Law No.260/2017 on the organization and functioning of Court of Accounts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126160&lang=ro#
100 https://mf.gov.md/ro/content/controlul-financiar-public-intern
101 The Government Ordinance No. 47/2021 on the Consolidated Annual Report on PIFC, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=126682&lang=ro

The execution of the Government Ordinance is subsequently monitored by MoF and the results are included in the next Annual Consolidated PIFC Report.

24. Please describe what cooperation arrangements exist between the CHUs and the Supreme Audit Institution(s), for informing each other about perceived internal control weaknesses in government systems, on training, etc.

The MoF CHU and the Court of Accounts with the aim to further develop and improve the PIFC system across the Government, have defined cooperation opportunities and arrangements in a Collaboration Agreement signed by the minister of finance and the president of the Court of Accounts, as of April 8, 2016[102].

The agreement is aimed at taking advantage of opportunities for cooperation between the two institutions, with a view to strengthening the system of PIFC and, in particular, the internal control system and the internal audit activity, as well as strengthening managerial accountability for efficient management of public resources according to the objectives of the public entity, based on the principles of good governance.

Based on the Collaboration Agreement, the parties cooperate through:

- mutual information regarding the elaboration, modification and completion of the normative framework, manuals, methodological guides;
- requests for advice and mutual exchange of opinions on the applied methodology;
- harmonization of audit techniques and instruments in order to ensure the unique character and approach in establishing the findings, the formulation of the audit conclusions and recommendations;
- elaboration of common methodologies for risk analysis that would allow the direction of internal audit activities towards key areas of the public entity;
- mutual invitation of the staff to the trainings organized by each of the parties;
- joint organization of round tables, conferences and other events in the field of PIFC;
- consideration of the external audit opinions regarding the internal control and internal audit in the monitoring and analyzes performed by MoF CHU and reflected then in the Consolidated Annual PIFC Report;
- involvement of experts in support and advisory bodies of MoF, in particular in the PIFC Council;
- involvement of external auditors as trainers in the delivery of the Training and Certification Program of internal auditors.
- Both entities are fully interested in maintaining and further development of fruitful collaboration in fields of internal control and internal audit. On the

102 The Collaboration Agreement between Court of Accounts and Ministry of Finance, as of April 8, 2016, available in Romanian at: https://www.ccrm.md/ro/acord-de-colaborare-intre-curtea-de-conturi-a-republicii-moldova-si-ministerul-f-29_1967.html

table of discussions currently are the involvement of Court of Accounts experts in activities like:

- external quality assessments of internal audit activity;
- drafting and delivery of the national Training Program on internal control;
- defining of common interest topics for inter-sectorial audit engagements, planned to be performed in beginning of 2022 year, under the coordination of MoF CHU.

II. EXTERNAL AUDIT

BRIEF SUMMARY

The external public audit is performed by the Supreme Audit Institution (ISA) of each country. The Court of Accounts of the Republic of Moldova (CoARM) represents the Supreme Audit Institution of the Republic of Moldova. The CoARM was founded in 1994, according to the provisions of the Art.133 of the Constitution of the Republic of Moldova[103]. During the same period, the CoARM became a member of the organizations EUROSAI and INTOSAI. Since its founding, the CoARM has been active under 3 organic laws, which, at certain times, depending on the country's development strategies, the reforms promoted in the field of PFM, but also the new visions of the political class and leadership of the CoARM, have undergone various modifications and adjustments, the vast majority of them corresponding to good practices in the field of external public audit and INTOSAI International Auditing Standards.

The answers to the following questions are provided following the comparative analysis of the legal framework covering the field of external public audit and the CoARM as ISAs, carried out against the background of the INTOSAI Principles, in particular INTOSAI-Ps 1 and 10, the Lima Declaration and the Mexico Declaration, which amongst others lay down the principles and requirements for the independence of SAIs and the legal foundation thereof. The implementation of these INTOSAI Principles in the legal framework are the foundations for meeting the expectations on "the implementation of internationally accepted external audit standards by the International Organization of Supreme Audit Institutions (INTOSAI)" articulated in the Association Agreement.

25. Please list the Supreme Audit Institution (SAI) laws.

Currently, the CoARM operates under the Law No. 260/2017 on the organization and functioning of the Court of Accounts of the Republic of Moldova[104].

The preamble of the Law No. 260/2017 confirms the adherence of the Republic of Moldova to the International Standards and to the best practices in the field of public audit, and Art. 3, para. (1) - expressly provides that the constitutional mandate of the CoARM of *„... exercising control over the formation, administration and use of public financial resources and public patrimony"* is performed through external public audit according to the SAI international standards.

103 Constitution of the Republic of Moldova, adopted on July 29, 1994, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro.
104 Law No. 260/2017 on the organization and functioning of the Court of Accounts of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=118293&lang=ro.

26. Is the independence of each SAI anchored in the Constitution? Please provide the specific references in the parliament.

The independence of the Court of Accounts is not expressly established throughout a constitutional norm.

The Lima Declaration states that SAIs can accomplish their tasks objectively and effectively only if they are independent of the audited entity and are protected against outside influence. According to the Lima Declaration the establishment of SAIs and the necessary degree of their independence should be guaranteed by the Constitution, and details may be set out in legislation. In particular, adequate legal protection by a supreme court against any interference with a SAI's independence and audit mandate shall be guaranteed.

The independence of the members should also be guaranteed by the Constitution. In particular, the procedures for removal from office should be included in the Constitution and should not impair their independence.

Finally, according to the Lima Declaration, the independence of SAIs provided under the Constitution and law should also guarantee a very high degree of initiative and autonomy, even when they act as an agent of the Parliament and perform audits on its instructions. The relationship between the SAI and Parliament should also be laid down in the Constitution.

Art. 133 of the Constitution of the Republic of Moldova states that:

"(1) The Court of Accounts controls the ways of creating, administering and utilizing public financial resources.

(2) The Court of Accounts is composed of 7 members.

(3) The President of the Court of Accounts is appointed for a 5-year term by the Parliament on the proposal submitted by the President of the Parliament.

(4) The Court of Accounts submits annually to the Parliament a report on the administration and utilization of public financial resources.

(5) The Court of Accounts' other powers, as well as its structure and functioning, will be established by organic law."

The Constitution addresses the role of the CoARM, its structure (7 Members of the Board), the appointment procedure of the President and the responsibility of the CoARM to submit an annual report to the Parliament. However, the Constitution does not specify the status of the CoARM as an independent institution and a supreme audit institution in the country. The status of the SAI is directly linked to its organizational, functional, operational and financial independence and determines the credibility and effectiveness of the institution. Also, the norms included in the secondary legislation related to the Court of Accounts are subjects to more often possible changes.

As the status of the Court of Accounts is not enshrined in the Constitution, the norms included in the secondary legislation are subject to possible changes more often.

These issues are constantly being addressed in the CoARM's multiple international evaluation reports (assessments: „peer-review" 2019-2022; WB[105] and the EU Committee 2019-2021; PEFA 2006-2021) and of the country (PEFA assessment 2006-2021 etc.)), which influences the final score offered to the CoARM, the Government and the Parliament of the Republic of Moldova in the PFM department, the external public audit and the parliamentary control[106]. Based on the recommendations of the CoARM's peer-reviewed international experts and other development partners, the CoARM prepares concrete proposals to amend the Constitution, which will be submitted for discussion to the Parliament and the civil society in order to take a necessary and relevant decision on the current national context.

27. Do the SAI laws provide for functional, operational and financial independence of the SAI in line with INTOSAI standards? Are the following aspects guaranteed in the legal framework and implemented in practice?

Starting with 2008, the principle of independence of the CoARM was expressly provided in the Law no. 261-XVI/2008 of the Court of Accounts[107]. From that moment until now, the institutional legal framework of the Court of Accounts provides the necessary degree of independence, as provided by INTOSAI, namely:

The Court of Accounts shall have **organizational, functional, operational and financial independence.** *(Art.6 of Law no. 261/2008 and art. 3 par. (2) of Law no. 260/2017)*

The Court of Accounts cannot be directed or controlled by any natural or legal person. (*Art.3 para. (3) of Law no. 260/2017), and,*

According to art.5 par. (3) of Law no. 260/2017, one of the principles on which the activity of the Court of Accounts is based is the **independence,** which means carrying out the activity independently of the Government, other public organizations, other legal persons under public or private law and natural persons.

a) Is the independence of the Head of the SAI (or Council members in case of a collegial body) legally protected, including appointment, terms of employment, removal, dismissal and immunity during the normal discharge of responsibilities?

The organic law of the Court of Accounts expressly provides for the status, independence and guarantees required in the process of holding the function of President and Member of the Court of Accounts, describes the appointment procedure,

105 The Quality of Audits by the Court of Accounts of Moldova: A Review of Compliance with International Standards of Supreme Audit Institutions, available in English at: https://www.ccrm.md/ro/the-quality-of-audits-by-the-court-of-accounts-3575_92315.html

106 The official, final versions of the PEFA and Peer-Review Reports will be made public in May 2022.

107 Then, in the Law No. 260/2017 on the organization and functioning of the Court of Accounts of the Republic of Moldova.

stipulates the circumstances in which the term of the Member of the Court of Accounts may end and invokes cases in which the Member may be revoked or suspended. Following the granting of the mandate, the President and the members of the CoARM obtain the status of a person of public dignity, apolitical, independent and irremovable, criteria provided by the organic law of the CoARM. Thus, the protection against arbitrary dismissal is legally ensured by 2 laws - the organic law of the CoARM and the Law No.199/2010 on the status of persons with positions of public dignity[108].

The stage of selection of candidates for the position of Member, including the President of the CoARM, is not expressly regulated constitutionally or by law. At the same time, Art. 17 para. (2) and para. (3) of Law no. 260/2017 provides for the appointment of the President of the Court of Accounts by the Parliament, at the proposal of the President of the Parliament, and of the members, at the proposal of the President of the Court of Accounts, **on the basis of a public competition**, with the vote of the majority of the elected deputies. It should be noted that the last appointments of the President[109] and of two Members[110] of the CoARM were organized and carried out in compliance with the provisions of the current law, the conditions provided by the Rules of Regulation of the Parliament[111] and the Regulation of the Court of Accounts concerning the procedure for organizing and conducting the public competition for the selection of candidates for the position of Member of the Court of Accounts. The participation of the Government is excluded in the selection and appointment of the President and the Members of the CoARM.

Therefore, the selection of the candidate for the position of President of the CoARM with his subsequent appointment belongs to the legislature, which also organizes the public competition at the level of profile Committee (Public Finance Control Committee and Legal Committee, Appointments and Immunities) and involves the parliamentary opposition. Subsequently, the opposition, by the vote offered, expresses its opinion on the support (non-support) of the appointment. The same approach is present in the procedure for the appointment of the Members of the CoARM, whose candidatures are nominated by the CoARM, but are subsequently examined in the Parliament's profile committees, which submit the respective proposal for appointment to the legislature.

CoARM's members can only be dismissed by the Parliament, with the CoARM's Law regulating specific grounds for their dismissal and suspension[112]. The grounds for removal are limited to following:

108 Law No.199/2010 on the status of persons with positions of public dignity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128023&lang=ro#.
109 Parliament Decision No.5/2019, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=112620&lang=ro
110 Parliament Decision No.196/2019, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119686&lang=ro and Parliament Decision No.185/2021, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128776&lang=ro
111 Law No. 797-XIII/1996 for the adoption of the Parliament's Regulation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=111777&lang=ro
112 Law no.260/2017 on the organization and functioning of the Court of Accounts of the Republic of Moldova, Art. 20

- loss of the Republic of Moldova citizenship;
- conviction by final and irreversible ruling of a court of law for a crime;
- inability, for health reasons, to perform their duties for more than 4 months consecutively;
- declared as missing without trace, in accordance with the law;
- activity in a political party or other social-political organization;
- a final decision of the National Integrity Authority on a breach of the legal regime for conflict of interest;
- deprivation of the right to occupy certain positions or to perform certain activities, as a principal or complementary punishment, by a final court decision;
- failure to submit the declaration of wealth and personal interests or refusal to submit it
- the existence of an irrevocable court decision ordering confiscation of unjustified wealth;
- breach of the obligation in the Law on the assessment of institutional integrity.

Situations where the CoARM's Members may be suspended include:

- from the moment of charge, when a criminal case is instituted in respect to their activity;
- from the date when a criminal case is sent to the court in which they are accused of committing a crime, up to a final court decision.

The CoARM's Law[113] states that:

(3) The CoARM's Members may not be investigated, retained, or arrested unless requested by the Prosecutor General, with the consent of the Parliament.

(4) The CoARM's Members shall not bear civil, administrative or criminal liability for the opinions expressed and the decisions taken in the exercise of their functions, except in the cases when the courts find out the fulfilment or the omission of fulfilment by these persons, in bad faith, of any deed or action related to the exercise of the powers of the Court of Accounts that caused damage to third parties.

The CoARM's Law obliges the President, Vice-president and Members of the CoARM to carry out their functions in an independent and impartial manner. Their appointment is for a term of five years.

113 Law no.260/2017 on the organization and functioning of the Court of Accounts of the Republic of Moldova, Art. 19 (3), (4)

b) Is the audit mandate of the SAI comprehensive, covering all public policy implementation and public financial operations?

Art. 133 para. (1) of the Constitution identifies the general mandate of the CoARM, and the organic law amplifies it and provides details on the area and tools of the mandate, the functions and responsibilities of the participants in the planning and implementation process, etc.

Comparing the exposition of the functional and operational independence of the CoARM in its organic law with the requirements of Section 4 of the **INTOSAI -P1 „Lima Declaration"** and with Principles 3 and 8 of **INTOSAI – P 10 „Mexico Declaration",** we certify the presence of the following compliant provisions:

The Court of Accounts:

- has the right to audit all financial and administrative activities, other activities, programs and projects managed by the entities, including the process of sale, privatization or concession of assets and revenues derived from them;
- has the right to audit the use of public financial resources by any beneficiary, regardless of the type of ownership and legal form of organization, as well as by political parties;
- is empowered to perform all types of audits: financial, compliance and performance;
- has the right to carry out the financial audit of state and municipal enterprises, of commercial companies whose share capital belongs entirely to the state or administrative-territorial unit, or at least half of the share capital;
- independently determines its annual and triennial priorities. It is free from instructions or interference by the legislative or executive authorities in the choice of audit aspects, in their planning, organization and reporting. The interventions from the Parliament in the activity of the CoARM can take place only in the way established in Art. 6 para. (5) of Law no. 260 from 17.12.2017, according to which „*The Parliament is entitled to request, by decision, the Court of Accounts to carry out external public audit tasks".*

The above provisions indicate that the legal framework provides the CoARM with a sufficiently broad mandate to meet the requirements of the IAS. However, in some cases, the CoARM is limited in choosing the type of audit in some autonomous and independent entities, as the regulations of these entities expressly provide for the type of external public audit that can be performed.

c) Does the SAI have authority to undertake the full range of financial, compliance and performance audits?

The Court of Accounts is empowered and performs all types of audits in practice: financial, compliance and performance.[114]

114 Law No.260/2017 on the organization and functioning of the Court of Accounts of the Republic of Moldova, Art. 31 Types of audit

d) Do SAI auditors have unrestricted rights to access the premises, records and documents of those bodies they are responsible for auditing?

For the purpose of exercising its mandate, Art. 32 para. (8) of Law No. 260/2017 provides the CoARM unrestricted, direct and free access, in a timely manner, to the digitized information, the databases necessary for the proper exercise of legal duties.

This provision is also developed in Art. 36, which expressly stipulates the rights and obligations of the audited entities. Considered by the International Auditing Standards INTOSAI (IAS INTOSAI) and good practices, these are reasonable and sufficient. Thus, the organic law of the CoARM stipulates the fundamental rights of the audited entities to know the purpose of the audit, the requirements of the normative-methodological framework applicable to the public audit, to present comments and proposals to the draft audit report, etc. At the same time, according to the same article, the audited entities are obliged:

according to para. (2), letter b) and c)

to submit, at the request of the public auditor, the necessary documents, information and databases within a reasonable time, which shall not exceed the limit set by the auditor;

to present, at the request of the public auditor, verbal and written explanations;

according to para. (2), letter a)

ensure that public auditors have access to their territory, at their headquarters or other premises and create appropriate working conditions for them;

according to para. (2), letter d)

to submit, within up to 7 working days, written comments (explanations) on the auditor's draft report, in which they will express their agreement or disagreement with the findings and conclusions made by the public auditor.

In order to ensure the full right of access to information in the headquarters/territories of the audited entities, para. (3) and para. (4) of Art.36 of Law no.260/2017 provide for the sanctioning according to the Contravention Code of the responsible persons from the audited entities, as well as information on such cases by the President of the Court of Accounts of the Parliament, the President of the Republic of Moldova, the Government or the deliberative body of the local public administration. We mention that, during 25 years of activity, the CoARM has rarely used this right, given the observance by the audited entities of the legal requirements for ensuring access to information. The cases of restricted access and/or failure to provide the requested information in a timely manner shall be settled amicably.

However, there are might be cases when the CoARM does not fully enjoy the legal rights of access to information in the exercise of its mandate. Several public entities restrict access to information, according to their internal rules of collaboration with the audit teams in the exercise of their function.

e) Do the SAIs perform any duties that are not strictly related to External Audit, for example, the filing of criminal charges?

No, the CoARM is not legally empowered with such functional responsibilities.

However, there is cooperation between the CoARM and the follow-up and investigation bodies in an ongoing process, established since the founding of the CoARM, based on the respective legal framework, supported by the applicable internal institutional policies and procedures. There is a collaboration between the CoARM and the law enforcement bodies based on the principles of legality and non-admission of interference in their activity. The Court of Accounts notifies the law enforcement bodies regarding the detection of violations both at the decision of the Members of the CoARM taken at the end of the audit during the plenary session of examination and approval of the audit report, and during the audit115.

28. Is the SAI financially independent of the executive? Is the SAIs entitled to use funds allocated to them as they see fit? Please describe the budget setting procedure?

According to the Art.11 of Law No.261-XVI/2008 on the Court of Accounts the CoARM- has been invested with financial independence. The Law stipulated in detail the way of financing the activity, namely:

(1) The Court of Accounts estimates the costs of its business and plans its own annual budget for at least the next 2 years.

(2) The Court of Accounts has its own budget. The budget of the Court of Accounts for the following year shall be approved by the Parliament by 1 July of the current year.

(3) Parliament submits to the Government the approved budget of the Court of Accounts for inclusion in the draft state budget law for the following budget year.

(4) The annual financial reports of the Court of Accounts shall be subject to external audit, carried out in accordance with international auditing standards, by an independent, reputable and experienced external audit organization, selected by the Parliament on a competitive basis.

The legal provisions on the financial independence of the CoARM complied with the requirements of IAS INTOSAI, especially with the Section 7 of **INTOSAI – P 1.**

115 Law no.260/2017 on the organization and functioning of the Court of Accounts of the Republic of Moldova, Art. 7 and Art. 15 letter d)

„Lima Declaration" and Principle 8 **of INTOSAI-P 10 „Mexico Declaration"**. The CoARM undertook measures to achieve ***de facto*** financial independence.

Starting with 01.01.2018, the Court of Accounts operates based on a new organic Law No. 260/2017, elaborated in accordance with the provisions of Art. 49 of the Association Agreement and which, according to the expertise of such institutions, as SIGMA, European Court of Accounts and EU Commission, at that time fully complied with the requirements of IAS INTOSAI and good practices in the field of external public audit. According to Art. 4 of the Law No. 260/2017, the Court of Accounts:

a) has its own budget, which is administered independently in accordance with legal provisions;

b) presents to the Ministry of Finance, in the process of consultations organized for the medium-term budgetary framework, the draft own budget for the following year and for two subsequent years, with the approach of any proposal concerning its budget;

c) submits, by 10 May, its draft budget for the following year to the Parliament for consideration and approval.

(2) the Parliament shall approve the budget of the Court of Accounts for the following year by 1 July. The approved budget of the Court of Accounts is included in the state budget as a separate compartment.

After 8 months of implementation of this law, the Government initiated the procedure of amending the Art. 4 of the organic law of the Court of Accounts based on the need to *unify the legal norms regarding the elaboration, approval and administration of the budgets of the independent budgetary authorities and their alignment with the budgetary calendar and with the general budgetary procedures stipulated in the Law on public finances and budgetary-fiscal responsibility no.181/2014.* Thus, the Art.4 is reformulated as follows:

(1) The Court of Accounts is financed from the state budget within the limits of the budgetary allocations approved by the annual budget law.

(2) The budget of the Court of Accounts shall be drawn up, approved and administered in accordance with the principles, rules and procedures laid down in the Law on public finances and budgetary-fiscal responsibility no.181/2014.

In the meantime, the Parliament made some amendments to Art. 4 of the CoARM's organic Law No. 260/2017, by introducing the right of the Court to address the Parliament in case the resources provided are not sufficient for fulfilling its mandate. Currently, the provision on the budget and independence of the CoARM has the following content:

(1) The activity of the Court of Accounts is financed from the state budget.

(2) The Court of Accounts has its own budget, which is administered independently in accordance with the legal provisions.

(3) The budget of the Court of Accounts is elaborated and approved according to the principles, rules and procedures provided by the ***Law No. 181/2014*** *for the independent/autonomous budgetary authorities.*

(4) The Court of Accounts has the right to address the Parliament if the resources provided are insufficient to ***fulfill*** *its mandate.*

This change is more in line with the financial independence stipulated by IAS INTOSAI. However, the CoARM's budget is capped, drafted and approved as the budget of each budgetary institution. The budget of the CoARM is incorporated in the draft annual budget law, prepared by the Ministry of Finance, an institution audited by the Court of Accounts. All employees of the CoARM are civil servants and are subject to the same employment and remuneration regulations as employees of government institutions.

With regard to the execution of the approved budget, there are no specific restrictions on how the CoARM uses its resources. It is worth mentioning that 83% of the approved budget is for staff costs.

Although Art.15 and Art.22 of Law No.260/2017 expressly provide that the Court of Accounts approves the structure and the limit staff, the Court did not increase the number of its 160 units approved by Parliament in 2011. In the meantime, the CoARM's mandate has been extended, focusing on mandatory annual financial audits that require more time and staff resources. At the moment, the CoARM is focused on meeting the obligations related to the exercise of the mandate, increasing the number of performance and compliance audits, complying with the requirements regarding the rotation of key audit staff and ensuring the appropriate number of auditors in the team.

29. Have the SAIs adopted and are implementing a Strategic Development Plan that sets out the internal development approach on a multi-annual basis? If yes, please provide information on the key development priorities (and a copy of each Strategic Development Plan).

To date, the Court of Accounts has approved and implemented 3 Strategic Development Plans:

Strategic Development Plan 2006-2010, which provided for the transformation of the CoARM into a supreme audit institution, which meets the requirements of the Republic of Moldova-European Union Action Plan and operates in full compliance with INTOSAI standards;

Strategic Development Plan 2011-2015, which provided for the performance of audits in an independent, credible, transparent and professional manner, in order to promote

high standards of financial management for the benefit of the citizens of the Republic of Moldova;

Strategic Development Plan 2016-2020, which was aimed at strengthening the role of the supreme audit institution in evaluating the management of public funds and ensuring that the management of public finances corresponds to the principles of performance.

Currently, the Court of Accounts of the Republic of Moldova is implementing the 4th Development Strategy 2021-2025. It was developed with the support of the expert hired by the Delegation of the European Union to the Republic of Moldova.

Development strategy of the Court of Accounts for 2021-2025[116] sets the way for strengthening the support provided to audited entities in addressing existing deficiencies, addressing the Government's priorities and actions, as well as the individual performance of public authorities. For the purpose of consistent implementation, the Court of Accounts has approved a set of implementation procedures applicable to the current strategic period.

The strategic directions assumed by the Court of Accounts are oriented on 3 priorities:

- contributing to the sound management of public money by increasing the impact of audit activity;
- sustainable development of the Court of Accounts to ensure high quality audits;
- improving communication with stakeholders to increase the impact of the work of the Supreme Audit Institution.

The strategies are implemented, monitored and reported to the institution's management annually.

30. How do SAIs ensure that their working methods and procedures are kept up to date with INTOSAI standards?

Law No. 260/2017, Art.33 para. (1) provides: „The audit procedure shall be carried out in accordance with this law, the international standards of the supreme audit institutions, as well as the regulations, manuals and guidelines of the Court of Accounts developed in accordance with them".[117]

Since 2008, the CoARM has been permanently concerned with the fulfillment of the audit mandate in accordance with IAS INTOSAI and good practices in the field of

116 Development Strategy of the Court of Accounts for 2021-2025, available in English at|: https://www.ccrm.md/en/development-strategy-of-the-court-of-accounts-for-2021-2025-3571_92059.html
117 Law No. 260/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126160&lang=ro

external public audit. To this end, the institution has established and uses multiple tools, as they are:

- accession of IAS INTOSAI and their implementation;
- theoretical training of the staff with audit attributions regarding IAS INTOSAI /INTOSAI Professional Declarations Framework;
- on-job-training on the correct application in practice of IAAS INTOSAI/INTOSAI Professional Declaration Framework;
- pilot audits, with the participation of experts from the EU Delegation, the WB and colleagues from the Swedish ONA, etc.;
- sharing knowledge horizontally between experienced auditors and novice auditors, mentoring;
- ensuring the collective competence necessary to carry out each audit;
- establishing an effective quality control system;
- subjecting audit work to external reviews, etc.

In this context, in 2013, the CoARM adopted the decision to implement IAS INTOSAI, which it gradually implemented in practice with the support of Swedish ONA experts and consultants involved in 2 WB-funded projects. The CoARM monitors the changes that take place in the field of external public audit and adjusts its methodological basis according to the changes that occur at the level of INTOSAI. By the Decision of the Court of Accounts No. 2 from 24.01.2020, the CoARM implemented the Framework of Professional Statements of INTOSAI, which stipulates that international standards of supreme audit institutions are mandatory for application in all audits performed by the institution.

For each type of audit, the Court of Accounts has normative-methodological acts that are constantly evolving to ensure compliance with international standards in the field, but also with the best practices generally accepted between peer institutions. Their updating and adjustment is carried out with the continuous support of EU experts.

Thus, for the financial audit the regulatory framework consists of the following documents:

The Financial Audit Manual, which was approved for testing in 2016 (CoA's Decision No. 54/2016), following that in 2018 (CoA's Decision No.101/2018) to be approved for application. It has been updated twice in 2020 and 2022 (CoA's Decision No.2/2022, CoA's Decision No. 56/ 2020),[118] to ensure its relevance to applicable institutional practices as well as good practices.

Standardized set of working documents for the planning stage of financial audits (no. 102 from December 21, 2018);

The compliance audits are conducted in accordance with the provisions of the Compliance Audit Guide, which was approved for testing in 2019 (CoA's Decision

118 Financial Audit Manual, available in Romanian at: https://www.ccrm.md/ro/manualului-auditului-financiar-3574_92312.html

No. 55/2020)[119]. During 2022, the Court of Accounts will update and plans to approve the nominated Guide for implementation.

The performance audits within the Court of Accounts are carried out according to the Performance Audit Manual approved for testing in 2016 (CoA's Decision No. 54/2016)[120]. During 2022, the Court of Accounts will update and plan to approve the nominated Manual for implementation.

The changes operated in the internal normative acts are brought to the notice of the employees by placing them on the internal page of the institution and organizing the trainings, carried out in accordance with the annual training and professional development plan.

31. What procedures do the SAIs have in place for quality control providing reasonable assurance that the SAI auditors are complying with professional standards including independence, objectivity, confidentiality and competence?

The Court of Accounts implements a quality system based on INTOSAI principles, including international standards ISSAI 140 Quality Control for Supreme Audit Institutions, ISSAI 130 Code of Ethics, ISSAI 150 Auditor Competence[121] and the requirements of the internal normative acts of the Court of Accounts of the Republic of Moldova.

The Court of Accounts has policies and procedures well described within the Quality Guide. A new version of the Quality Guide adapted to ISSAI 140 requirements is currently being worked on. It is in the process of being finalized. The quality guide provides a description of audit quality control policies and procedures at all stages, including the "hot" and "cold" review.

Through its policies and procedures, the Court of Accounts promotes consistency in the quality of the conduct of the audit engagement, in written and electronic manuals (guides), software tools or other forms of standardized documentation, or in guidance materials concerning a specific topic through methodological bulletins, newsletters, etc.

When conducting audits, regardless of its type, the Court of Accounts has the following **quality control procedures**:

Guidance - procedure carried out through the audit manager, the head of the audit team and/or between the members of the audit team to guide the persons involved in

119 Compliance Audit Guide, available in Romanian at:
https://www.ccrm.md/ro/ghidul-privind-auditul-conformitatii-3574_92313.html
120 Performance Audit Manual, available in Romanian at:
https://www.ccrm.md/ro/manual-de-audit-al-performantei-3574_92314.html
121 ISSAI 150 will be officially approved by INTOSAI in August 2022.

the audit engagement in the right direction and comply with professional standards. Guidance is provided throughout the audit.

Consultation - procedure carried out through specialized subdivisions in various fields to solve problems, difficulties identified on certain issues, such as: legal, methodological, quality, communication (editorial), internal managerial control, IT, etc.. The consultation is usually done at the reporting stage, but as appropriate, may be requested at other stages of the audit.

Supervising - supervisory procedure carried out through the audit manager and the head of the audit team, to ensure that the audit is carried out in accordance with professional standards and that the deadlines and the limit of allocated resources are respected. Supervision is performed during the audit.

Review - procedure that provides an objective assessment, carried out both by the team leader and the audit manager, and by the specialized subdivisions (legal, methodological, quality control, communication, internal audit, "hot" review group), in order to improve the quality of audit. The review is usually done at the reporting stage, but as appropriate, may be requested at other stages of the audit. The following types of reviews are used within the Court of Accounts:

peer review between audit team members - it is performed by the members of the audit team, to ensure that the audit documents prepared, including the audit report in the draft version, are free from errors or contradictions and meet the quality requirements. During the meetings, the audit team will discuss issues such as: whether the process has been carried out effectively, whether the audit objectives have been achieved, whether the results are obtained in a timely manner, and other relevant issues;

review by the audit manager (*quality control level II*) - An important role in the audit work is the responsibility of the audit manager who is responsible for verifying the performance of the audit work in accordance with the audit plan. The audit manager shall ensure that quality control requirements are met at all stages of the audit.

legal assistant review - at the reporting stage, the person responsible for legal assistance must analyze the draft audit report and the Court of Accounts' Decision on its approval and verify the compliance of the findings described with the applicable legal framework, as well as the correctness of the legal rules underlying these documents;

review by the methodological assistant - methodological evaluation of audit materials in order to improve their quality, before the approval of the audit report;

review by the communication assistant - support the planning and reporting stages, in particular in the performance and compliance audit, to ensure the clarity and legibility of audit reports. At the planning stage, support can be provided to formulate audit objectives, questions and sub-questions, identify key messages, etc. At the reporting stage, support can be provided to review and improve the formulation of

audit findings, conclusions and recommendations, and integrate key messages into the draft Audit Report;

”hot” review - procedure that is performed to provide an objective assessment of compliance with the minimum quality requirements by examining methodological issues, including significant reasoning made by the audit team or conclusions reached at key stages of the audit process: planning and reporting. The composition of the working group for conducting "hot" reviews and the annual program of "hot" reviews of the quality of audit engagements are approved throughout the Order of the President of the Court of Accounts, according to the audit processes related to audit types, approved by the Court of Accounts. A review team of at least two people in charge of the Review Working Group carries out the hot-review of an audit engagement.

”cold” review - procedure which is carried out in order to provide an objective assessment of whether the completed audits were carried out according to the professional standards and the main requirements of the policies and procedures established by the Court of Accounts. The "cold" review is carried out by the subdivision responsible for quality control on the basis of the Annual Program of "cold" quality audit reviews approved by the President of the Court of Accounts. The task of the subdivision is to analyze and evaluate the quality system at the level of the audit activity, involving the review of a sample of completed external public audit missions.

Ethic Code. The Code of Ethics of the Court of Accounts addresses 7 fundamental ethical values: integrity; independence and objectivity; competence; confidentiality and transparency; professional conduct. It explains the essence of the principles in terms of the commitments of ethics and conduct assumed by all employees of the institution. Ethics guidelines are an integral part of the Code and come with clear requirements and explanations for each principle.

Independence. The Court of Accounts shall consistently carry out audits of high quality, performed in an efficient manner, respecting the ethical values of integrity, independence and objectivity, competence, confidentiality, transparency and professional conduct of the auditors involved. At the same time, at the beginning of any audit engagement, the auditor and each member of the audit team must complete and sign a Statement of Independence. In addition, when initiating reviews, the members of the review team both “hot” and “cold” (reviewers) sign a Statement of Independence.

Confidentiality. The Court of Accounts shall ensure the confidentiality, preservation, and integrity of the audit documentation. In this context, appropriate control measures are in place to ensure the integrity of the audit documentation:

- determining when and by whom audit documentation was developed, modified or revised;
- protection of the integrity of information at all stages of the audit, in particular where members of the audit team exchange information or the information is transmitted to third parties by email;

- preventing unauthorized changes to audit documentation;
- ensuring the access of the audit team and other authorized parties to the audit documentation necessary for the proper performance of their duties; etc.

Competence. The document that regulates the competencies of the employees of the Court of Accounts is the *Framework of professional competences within the Court of Accounts of the Republic of Moldova.* It is in completion process. At the same time, the Court of Accounts, when forming the audit team, takes into account the basic principle regarding the competences necessary to carry out the audit, namely: *"the level of competence of each member of the team does not matter, as the collective (cumulative) competence of the audit team is important"*. Prior to the commencement of the audit engagement, once the audit team has been formed, the audit manager shall prepare a *Communication Note on the competencies of the audit team members*, confirming that the audit team, collectively and individually, has the appropriate competences and capabilities to perform the audit in accordance with professional standards.

The Annual Report on the results of the "hot" and "cold" reviews of the quality of audits for 2021 and its annexes is attached.

32. How do the SAIs communicate their audit results (i.e. through media, websites, etc.)? Do the SAIs make their audit reports publicly available?

The CoARM complies with the national legislation[122] and the requirements of IAS INTOSAI (INTOSAI-P 12, INTOSAI-P 20) regarding transparency and decision-making, presenting the news of the basic activity and the results of the audit in an accessible manner, by publishing and posting on the official WEB page. All CoARM's reports are made available to the general public by posting them on the CoARM's website, and the annual activity reports *(1 May)* and audit reports *(15 September)*, as well as the Decisions regarding the approval of each additional audit report are also published in the Official Gazette of the Republic of Moldova.

In order to ensure the accessibility of information and media coverage of the activity, the meetings of the CoARM for the examination of audit reports are public and posted on the official website of the institution (www.ccrm.md), on social media accounts (www.facebook.com, www.youtube.com). The archive of public meetings in video format is available on the institution's account in the network www.youtube.com.

Statistical data indicate that the number of unique views, in 2021, of the CoARM's meetings on different platforms exceeded the number of 720 thousand.

In addition, in 2021, special attention was paid to the collaboration with information platforms and electronic media, for the organization of the live broadcast of the

122 Art.15 of Law No. 239/2008 on transparency in the decision-making process, Art. 12 of Law No. 181/2014 and Art. 10 of Law No. 260/2017.

meetings (www.privesc.eu, www.realitatea.md), as well as for promoting audit reports on a wide range of media sources. Over 500 materials focusing on the work of the Court of Accounts and audit reports were published in the electronic media during the reporting period.

The CoARM constantly promotes transparency in the activity, in this sense ensuring the placement on its official page (www.ccrm.md) of all audit reports; annual reports on the administration and use of public financial resources and public assets; the activity reports of the Court of Accounts; of the external audit reports on the financial reports of the CoARM, etc. In the second half of 2021, the Court of Accounts launched a new modernized version of the official website www.ccrm.md, which offers more possibilities for structuring and presenting information of public interest.

33. What procedures do the SAIs have in place to monitor the implementation of their audit recommendations?

The process of monitoring the implementation of the Court of Accounts' recommendations is an integral part of the audit activity. The obligation to implement the recommendations of the Court of Accounts is expressly provided by Law No. 260/2017. The audited entities are obliged, within the deadline set by the Court of Accounts, to report on the implementation of the recommendations or on the reasons why they were not implemented, and the Court must ensure the monitoring of their implementation.

To this end, the Court has developed and implemented the Information System (IS) "Audit CCRM", which allows monitoring the deadline for the execution of its decisions, viewing in real time information on the actions taken by audited entities to implement audit recommendations, being interconnected with the CoARM's website.

The internal procedure governing the process of monitoring the implementation of the Court of Accounts' recommendations is set out in the Regulation on monitoring the implementation of the Court of Accounts' decisions initially approved in 2013, being subsequently revised in 2017[123] (Decision No.50/2017).

At the present time, the process of monitoring the implementation of the recommendations is being reviewed, in this sense being re-engineered the Information System used. The IS is in the process of being tested, and by the end of the year changes will be made to the internal regulatory framework.

The impact of the audit activity, as well as the actions taken by the entities to implement the audit recommendations are posted on the official website of the CoARM[124], being

123 Regulation on monitoring the implementation of the Court of Accounts' decisions, available in Romanian at: https://www.ccrm.md/ro/regulamentului-privind-monitorizarea-implementarii-hotararilor-curtii-de-conturi-3576_92316.html

124 https://www.ccrm.md/ro/decisions

summarized in a separate section of the Annual Report on the Administration and Use of Public Financial Resources and Public Assets, 2020[125].

34. How do the SAIs report their findings to the parliament? Are there dedicated committees to consider the SAI audit reports? What are the parliamentary procedures for examining SAI reports?

Art.133, para. 1 and 2 of the Constitution of the Republic of Moldova expressly provide the right and obligation of the CoARM to verify the formation, administration and use of public financial resources, with the annual presentation in the Parliament of a report in this regard. The CoARM is not restricted in reporting, and the legal requirements[126] clearly stipulate the powers, obligations of the CoARM and the deadlines for reporting to the Parliament.

According to them, the Court of Accounts submits the following **mandatory reports** to the Parliament**:**

The annual activity report of the CoARM (by May 1*);*

Auditor's reports on the implementation of the central consolidated budget: the state budget, the state social insurance budget and the compulsory health insurance funds (by June 1*);*

Annual report on the administration and use of public financial resources and public patrimony[127] *(by September 15)*;

Other reports they deem necessary to submit.

The financial audit reports and the decisions of the Court of Accounts approving them with the contrary opinion or with the impossibility of expressing the opinion on the financial situation of the budgetary authority/institution are submitted to the Parliament and the Government for information and taking the necessary measures.

The cooperation and communication between the CoARM and the Parliament became more active with the creation of the Public Finance Control Committee throughout the Parliament Decision No. 49/2019. The Committee became fully operational at the beginning of 2020, establishing mechanisms and procedures for effective cooperation between the PFCC and the CoARM, such as hearing audit reports within the Committee's meetings, with the participation of representatives of the Court of Accounts and audited entities, cooperation in the context of monitoring the situation regarding the implementation of audit recommendations, consulting the CoARM in the process of elaborating some legislative initiatives by the PFCC's representatives, etc.

125 Annual Report on the Administration and Use of Public Financial Resources and Public Assets, 2020, available in Romanian at: https://ccrm.md/ro/rapoarte-anuale-88.html
126 Art.6 of Law No. 260/2017 and Art.47 para. 1, letter g) of Law No.181 / 2014.
127 Art.133 para. (4) of the Constitution of the Republic of Moldova.

The examination of the mandatory audit reports of the CoARM by the Legislature was affected by the early parliamentary elections that took place on July 11, 2021. As a result, the Parliament did not activate for almost 3 months.

In addition to the mandatory reports, the CoARM submits audit reports to the Parliament on the independent financial statements of central government budget units, as well as performance and compliance audits. The table below shows the total number of audit reports submitted by the CoARM and those that were examined within the fiscal years 2018-2021.

Audit reports submitted by the CoARM and examined by the Parliament

Fiscal Year	2018	2019	2020	2021
Total audit reports on financial statements for central government budget units plus compliance and performance audits by the CoARM	52 - total of which: financial – 40, compliance – 5, performance – 6, follow-up – 1	41 - total of which: Financial – 21, compliance – 10, performance – 5, follow-up – 5	49 - total of which: financial – 17, compliance – 21, performance – 8, follow-up – 3	42 - total of which: financial – 18, compliance – 17, performance – 6, follow-up – 1
Examined by the Parliament	11	4	44	34
Percentage of audit reports examined	21%	10%	91%	81%
Average time for review of audit reports upon receipt by Parliament	1,5 months	1,5 months	3 months	For 2021, this indicator cannot be measured for objective reasons, given the fact that early parliamentary elections took place. Respectively, the Parliament has not been functioning for 3 months this year.

Source: Statistical data of the CoARM and the Parliament.

The results show that out of 284 audit reports submitted by the CoARM to the Parliament in the fiscal years 2018-2021, 93 were examined, representing an average of 33%. However, starting with 2020, this indicator has increased considerably to 91% in 2020 and 81% in 2021.

Prior to 2020, the audit reports submitted by the Court of Accounts were examined primarily in the Committee on Economy, Budget and Finance or in the standing sectoral committees depending on the subject of the audit report. At that time, the hearings were conducted without the presence of the audited entities, and the minutes or report of the hearings referred mainly to the endorsement of the audit findings with the recommendation that the reports be heard in the Plenary of the Parliament[128].

Following the establishment of the Public Finance Control Committee, hearings on the audit reports submitted by the Court of Accounts are held regularly with the participation of the CoARM's auditors and the officials responsible for the audited

128 Only for mandatory reports issued by the CoARM.

entities, who are invited to provide explanations or answer questions from the Members of the Parliamentary Committee.

35. What parliamentary follow-up is given to SAI audit reports?

In the context of the many issues related to the sound management of public money, the role of the Committee is an important one, taking into account the levers of responsibility of the management of audited entities and not only, and the Court of Accounts places particular emphasis on working with the Committee by assuring a transparent and efficient collaboration in this process. The CoARM is supported by the PFCC in consolidating the impact of the audit activity, being held meetings to examine the results of the implementation of the recommendations of the Court of Accounts. The purpose of such meetings is to address established audit deficiencies, as well as to achieve a greater degree of compliance and accountability of the audited entities on the importance of implementing the recommendations made.

Until 2020, the Parliament did not monitor the recommendations it made or approved following the public hearings of the audit reports submitted by the CoARM, nor the audit recommendations provided by the CoARM through its reports. Thus, there is not enough evidence to ensure that they have been implemented. During the financial year 2020, the Parliament followed up on the recommendations issued and ensured that the Court of Accounts reported on its own follow-up to previous recommendations.

The nature of the recommendations issued by the Legislature when examining the CoARM's reports before 2020 were of a general nature, and the minutes or report of the hearings mainly referred to the opinion of the audit findings highlighted by the CoARM in their audit reports. There was no separate system for monitoring the implementation of the recommendations, and the Legislature ascertained the implementation of the audit recommendations in subsequent audit reports.

Following the establishment of the Public Finance Control Committee and the fact that the audited entities and other related stakeholders are systematically invited by the Committee for deliberations, the legislative examination of the CoARM's reports has significantly improved. For each public hearing, the Committee shall report on the main conclusions of the deliberations, recommendations and resolutions made on the follow-up to the audit recommendations. If significant deficiencies are found in the audit report, the reports shall indicate to the audited entities to inform the Committee directly of the actions taken to implement the audit recommendations within a specified timeframe. The CoARM is also requested to inform the Committee on the results of the monitoring of the execution of its Decisions.

In order to remedy the audit deficiencies, as well as for the compliance and awareness by the audit entities of the importance of implementing the audit recommendations, the Committee organized during 2020-2021, 5 public hearings with the participation of both the representatives of the responsible public entities and the Court of Accounts. These meetings focused strictly on the implementation of the recommendations of the

Committee and the Court of Accounts, following the expiry of the deadlines for their implementation.

Table 2: The dates of the recommendations and the review of the recommendations issued by the legislature

Audited financial statements for FA	Date of submission of recommendations	Date of review of recommendations
2018	N/A	N/A
2019	N/A	N/A[129]
2020	04.03.2020 (SE Chisinau International Airport)	30.03.2021
	26.02.2020 (SE Air Moldova)	
	02.06.2020 (JSC Tutun CTC and JSC Stațiile Auto)	
	04.02.2020 (National Regional Development Fund)	12.05.2020
	06.02.2020 (Vine and Wine Fund)	

Data source: PFCC's Decisions on measures taken by the institutions responsible for executing the recommendations issued in the PFCC's Reports on hearing audit reports

For the reports of the CoARM that are the subject of deliberations in the Plenary of the Parliament, the Legislature issues a Decision by which it takes note of the audit findings and requests the Government to take measures for the implementation of the SAI's recommendations. There have been cases where the Legislature has also asked prosecutors to examine the findings of the audit and present the results of this assessment to the Parliament.

129 For 2018 and 2019, Parliament did not issue separate recommendations. It only endorsed the audit reports prepared by the CoARM.

III. PROTECTION OF THE EU'S FINANCIAL INTERESTS

A. Alignment with the Convention on the protection of the EU's financial interests (PIF Convention and PIF Directive 2017/1371) and its three protocols, which aim to create a common legal basis for the criminal law protection of the EU's financial interests

36. What are the applicable definitions of irregularity, fraud, passive corruption, active corruption, money laundering? Please identify: a) the relevant provisions in the legislation; b) the penalties for the principle offenses of fraud (both in revenue and expenditure), passive corruption, active corruption and money laundering in the legislation,

Pursuant to point 3 from the Regulation on the implementation of cross-border and transnational cooperation EU-funded programs (Annex to the Government Decision no.576/2017130):

fraud – is a deed *(misdemeanour or, as the case may be, an offense)* of fraudulent obtaining, misuse or embezzlement of funds allocated by the EU under the Programs, as well as other breaches which are or could be detrimental to the general budget of the EU and / or the national public budget;

irregularity - any deviation from the provisions of the financing agreements, grant agreement as a result of an unintentional error, which is or could be detrimental to the general budget of the EU and / or the national public budget and which can be remedied;

Criminal Code no.985/2002131**:**

Article 324. Passive bribery

(1) Requesting, accepting or receiving, directly or through an intermediary, by a public person or foreign public person, of goods, services, privileges or advantages of any kind to which he or she is not entitled, for himself or herself or for anyone else, or accepts an offer or promise thereof, in order to perform or refrain from performing an act, or delay or facilitate the performance of an act, in the exercise of his or her duties or contrary thereto,

shall be punishable by imprisonment for 3 to 7 years with a fine of between 4,000 and 6,000 conventional units and with the deprivation of the right to occupy certain public positions or to exercise a particular activity for a period of 5 to 10 years.

(2) The same actions committed:

a/1) by international officials;

130 https://www.legis.md/cautare/getResults?doc_id=121873&lang=ro
131 https://www.legis.md/cautare/getResults?doc_id=130983&lang=ro

b) by two or more persons;

c) with extortion of goods or services listed in par. (1);

d) large scaleshall be punished by imprisonment for 5 to 10 years with a fine in the amount of 6000 to 8000 conventional units and with the deprivation of the right to occupy certain public positions or to exercise a particular activity for 7 to 10 years.

(3) The actions set forth in par. (1) or (2) committed:

a) by a publicly appointed office-holders;

b) in extremely large proportions;

c) in the interest of an organized criminal group or a criminal organization,

shall be punishable by imprisonment from 7 to 15 years with a fine from 8000 to 10000 conventional units and with the deprivation of the right to occupy certain public positions or to exercise a certain activity for a period from 10 to 15 years.

(4) Actions provided for in para. (1), committed in proportions not exceeding 100 conventional units, shall be punishable by a fine from 1000 to 2000 conventional units and with the deprivation of the right to occupy certain public positions or to exercise a certain activity for a period of up to 5 years.

Article 325. Active bribery

(1) Promising, offering or giving, directly or through an intermediary, to a public person or foreign public person, of goods, services, privileges or advantages of any kind to which he or she is not entitled, for himself or herself or for anyone else, with a view to having him or her perform or refrain from performing an act, or delay or facilitate the performance of an act, in the exercise of his or her duties or contrary thereto,

shall be punishable by imprisonment for up to 6 years with a fine of between 2000 to 4000 conventional units in the case of a natural person, and a fine of between 6000 to 10000 conventional units with disqualification from performing certain activities in the case of a legal person.

(2) The same actions committed:

b) by two or more persons;

c) on a large scale shall be punished by imprisonment from 3 to 7 years with a fine of between 4000 to 6000 conventional units in the case of a natural person, the legal entity shall be punished by a fine of between 10000 to 14000 conventional units with disqualification from performing certain activities.

(3) The actions set forth in par. (1) or (2) committed:

a) on an especially large scale;

a/1) with regard to a publicly appointed office-holder or an international official; b) in the interests of organized criminal group or a criminal organization shall be punished by imprisonment for 6 to 12 years with a fine in the amount of 6000 to 8000 conventional units in the case of a natural person, the legal entity shall be punished by a fine of between 14000 to 18000 conventional units with disqualification from performing certain activities or the liquidation of the legal entity. (…)

(4) The person who promised, offered, or provided the goods or services listed in art. 324 shall be exempted from criminal liability provided that the goods or services were extorted from him/her or if the person denounces himself/herself without knowing that criminal investigative bodies knew about the crime he/she committed.

Article 243. Money Laundering

(1) Money laundering committed by:

a) the conversion or transfer of goods by a person who knew or should have known that such goods were illegal earnings in order to conceal or to disguise the illegal origin of goods or to help any person involved in the commission of the main crime to avoid the legal consequences of these actions;

b) the concealment or disguise of the nature, origin, location, disposal, transmission, or movement of the real property of the goods or related rights by a person who knew or should have known that such were illegal income;

c) the purchase, possession or use of goods by a person who knew or should have known that such goods were illegal earnings;

d) the participation in any association, agreement, complicity through assistance, help or advice in order to commit the actions set forth in letters a)-c);

shall be punished by a fine in the amount of 1350 to 2350 conventional units or by imprisonment for up to 6 years, in both cases with (or without) the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 8000 to 11,000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

(2) The same actions committed:

b) by two or more persons;

c) by using of an official position,

shall be punished by a fine in the amount of 2350 to 5350 conventional units or by imprisonment for 4 to 7 years, with a fine imposed on the legal person, from 10000 to

13000 conventional units, with the deprivation of the right to exercise certain activities or with the liquidation of the legal person;

(3) The actions set forth in par. (1) or (2) committed:

a) by an organized criminal group or a criminal organization;

b) in extremely large proportions;

shall be punished by imprisonment for 5 to 10 years, with a fine imposed on the legal person, from 13000 to 16000 conventional units or with the liquidation of the legal person.

(4) Illegal actions shall also be acts committed outside the territory of the country provided that such acts include the constitutive elements of a crime in the state where they were committed and may be the constitutive elements of a crime committed in the territory of the Republic of Moldova.

By Law no.105/2016[132] the Criminal Code was supplemented with the following articles:

Article 126/1. Resources from external funds

Resources from external funds shall mean the financial and material means allocated as grants, subsidies, credits, donations, loans, humanitarian aid by other states, the European Community or international institutions, organizations and associations, foreign natural or legal persons, guaranteed or contracted by the State, as well as the non-refundable ones.

Article 332/1. Fraudulent procurement of resources from external funds

(1) Use or presentation of manifestly false, inaccurate or incomplete documents, documentary evidence or data for receiving the approvals or guarantees required for the grant of the financing obtained or guaranteed from external funds, as well as the omission to provide the data required under the law in order to obtain resources from external funds, if the act results in the fraudulent procurement of such financial means,

shall be punishable by a fine from 4000 to 5000 conventional units or by imprisonment from 2 to 5 years, in both cases with the deprivation of the right to occupy certain positions for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 5000 to 6000 conventional units, with the deprivation of the right to exercise a particular activity for a term of up to 3 years.

(2) The same actions:

a) committed by two or more persons;

132 https://www.legis.md/cautare/getResults?doc_id=93532&lang=ro

b) which have caused extended damages;

c) committed by a public person, by a person in a position of responsibility, by a publicly appointed office-holder, by a foreign public person or by an international official

shall be punishable by a fine from 4000 to 6000 conventional units or by imprisonment from 3 to 7 years, in both cases with the deprivation of the right to occupy certain positions for a period from 3 to 7 years, and the legal person shall be punishable by a fine from 6000 to 8000 conventional units, with the deprivation of the right to exercise a particular activity for a period from 3 to 5 years or with the liquidation of the legal person.

(3) Actions provided for in para. (1) and (2) that caused damage in exceptionally high proportions

shall be punishable by a fine from 7000 to 9000 conventional units or by imprisonment from 4 to 8 years, in both cases with the deprivation of the right to occupy certain positions for a period from 5 to 8 years, and the legal person shall be punishable by a fine from 8000 to 10000 conventional units, with the deprivation of the right to exercise a particular activity for a period from 3 to 5 years or with the liquidation of the legal person.

Article 332/2. Embezzlement of the resources from external funds

(1) Embezzlement of the resources from external funds

shall be punishable by a fine from 3000 to 4000 conventional units or by imprisonment from 2 to 5 years, and the legal person shall be punishable by a fine from 4000 to 5000 conventional units with deprivation of the right to exercise a particular activity for a period of up to 3 years.

(2) The same action committed:

a) by two or more persons;

b) in large proportions;

c) by a public person, by a person in a position of responsibility, by a foreign public person or by an international official

shall be punishable by a fine from 4000 to 6000 conventional units or by imprisonment from 7 to 10 years, in both cases with the deprivation of the right to occupy certain positions for a period from 3 to 6 years, and the legal person shall be punishable by a fine from 5000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 2 to 5 years.

(3) Actions provided for in para. (1) and (2) committed:

a) by a publicly appointed office-holder;

b) in exceptionally high proportions;

c) in the interest of an organized criminal group or a criminal organization

shall be punishable by a fine from 6000 to 8000 conventional units or by imprisonment from 10 to 15 years, in both cases with the deprivation of the right to occupy certain positions for a period from 6 to 8 years, and the legal person shall be punishable by a fine from 7000 to 9000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 2 to 5 years.

By the same Law, Article 240 from the Criminal Code was presented in a new reading:

Article 240. Use, contrary to the purpose, of the resources from internal loans or from external funds

(1) Use, contrary to the purpose, of the resources from internal loans or from external funds, if such act is not an appropriation,

shall be punishable by a fine from 3000 to 4000 conventional units or by imprisonment of up to 3 years, and the legal person shall be punishable by a fine from 4000 to 5000 conventional units, with the deprivation of the right to exercise a particular activity for a term of up to 3 years.

(2) Use, contrary to the purpose, of subsidies, donations or humanitarian aid, in large proportions, if such act is not an appropriation,

shall be punishable by a fine from 4000 to 5000 conventional units or by imprisonment from 2 to 6 years, in both cases with the deprivation of the right to occupy certain positions for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 5000 to 6000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 2 to 5 years.

(3) Use, contrary to the purpose, of domestic loans, grants, credits, as well as of external loans, in large proportions, if such act is not an appropriation,

shall be punishable by a fine from 5000 to 6000 conventional units or by imprisonment from 3 to 6 years, in both cases with the deprivation of the right to occupy certain positions for a period from 3 to 6 years, and the legal person shall be punishable by a fine from 6000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 3 to 5 years or with the liquidation of the legal person.

(4) Actions provided for in para. (2) and (3) committed:

a) by two or more persons;

b) in exceptionally high proportions;

c) by a public person, by a person in a position of responsibility, by a publicly appointed office-holder, by a foreign public person or by an international official

shall be punishable by a fine from 6000 to 8000 conventional units or by imprisonment from 6 to 10 years, in both cases with the deprivation of the right to occupy certain positions for a period from 4 to 7 years, and the legal person shall be punishable by a fine from 7000 to 9000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 4 to 5 years or with the liquidation of the legal person.

Regarding the revenues, we'd like to point out that in the Criminal Code of the Republic of Moldova no.985.2002133 it is incriminated in Article **248** the act of ***"Smuggling"*** and in Article **248/1** ***"Act of smuggling with excise goods"***. One of the alternative ways of committing these acts is the removal from the territory of the Republic of Moldova of goods and merchandise subject to excise with fraudulent use of documents or means of customs identification, or by non-declaration or inauthentic declaration in customs documents or other transit documents, facts by which persons could try to modify the amount of import duties paid in the EU where these goods are exported.

37. Please identify the relevant provisions in the legislation concerning the criminal liability of company managers. What is the applicable definition of complicity in economic crimes?

CRIMINAL CODE of the Republic of Moldova no. 985/2002:

GENERAL PART

(…)

Article 42. Participants

(1) Participants shall be considered the persons who contribute to the commission of a offence either as the authors, organizers, instigators, or as accomplices.

…

(5) An accomplice shall be considered a person who contributes to the commission of a offence by giving advice, indications, or information and by offering means or tools or eliminating obstacles as well as the person who promises in advance that he/she will favor the criminal, hide the means or tools used to commit the offence or traces thereof or the goods obtained through criminal means, or the person who promises in advance to purchase or sell such goods.

…

133 https://www.legis.md/cautare/getResults?doc_id=130983&lang=ro

Article 239[1]. Deficient or fraudulent management of the bank, of the investment company, of the insurance company

(1) Failure to carry out the actions required under the law, the decisions of the National Bank of Moldova, the decisions of the National Commission of the Financial Market, the statute of the bank, the statute of the investment company, of the insurance company, in the case of recording of financial losses or existence of the risk of such losses, by the members of the management bodies, shareholders, beneficial owners and the affiliated persons of the shareholders and of the beneficial owners.

(2) Falsifying or destroying bank documents, misleading, misrepresenting or using false data, distorting or concealing truthful data by the persons provided for in para. (1) in the bank's management process, of the investment company, of the insurance company shall be punishable by a fine from 850 to 1350 conventional units or by imprisonment of up to 3 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 to 5 years.

(3) Actions committed or omissions allowed, provide for in Articles 238, 239 and 239[1] by members of the bank's management bodies, the bank's shareholders, the beneficial owners of the bank's shareholders, as well as the affiliated persons of the shareholders and the beneficial owners, which have led to the insolvency of the bank or the triggering of the resolution process thereof, as provided for in the Law on bank recovery and resolution, including as a result of the insolvency of the parent entity, shall be punishable by a fine from 1000 to 2000 conventional units or by imprisonment of up to 6 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 to 5 years.

(4) For the purposes of this Article, the term of affiliated person shall have the meaning provided in Art. 31 of the Law on Financial Institutions no. 550-XIII of July 21, 1995.

Article 239[2]. Obstruction of bank supervision

Commission by the shareholder, director or any other employee of the bank of one of the following acts:

a) does not respond to the information requests of the National Bank of Moldova, in the manner specified by it, in order to exercise its powers provided under the law;
b) sends erroneous reports or information to the National Bank of Moldova, does not ensure the implementation of the corrective or remedial measures or of the restrictions imposed by the National Bank of Moldova;

c) prevents the inspections of the National Bank of Moldova or the checks of the auditors or refuses to submit the documents required for the inspections and verifications;
d) obstructs in any other way the exercise of supervision by the National Bank of Moldova, shall be punishable by a fine from 750 to 1150 conventional units or by imprisonment from 6 months to 1 year.

Article 242. Pseudo Entrepreneurship

Pseudo entrepreneurship, meaning the establishment of enterprises without the intention to practice an entrepreneurial or banking activity in order to cover illegal entrepreneurial activities if causing damages of large proportions shall be punished by a fine in the amount of 2025 to 3525 conventional units or by imprisonment for up to 3 years, whereas a legal entity shall be punished by a fine in the amount of 2000 to 4000 conventional units with the deprivation of the right to practice certain activities.

Article 242[1]. Handling of an event

(1) Encouraging, influencing or training a participant in a sports event or a betting event to take actions that would have a vicious effect on the respective event, in order to obtain goods, services, privileges or advantages in any form whatsoever, that he/she is not entitled to, for himself/herself or for another person, shall be punishable by a fine from 2350 to 4350 conventional units or by imprisonment from 1 to 3 years, in both cases with the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 3 years, and the legal person shall be punishable by a fine from 6000 to 9000 conventional units, with the deprivation of the right to exercise a particular activity.

(2) The same actions committed by a coach, an agent of the athlete, a member of the jury, a sports club owner or a person who is a member of the management of a sports organization
shall be punishable by a fine from 3350 to 5350 conventional units or by imprisonment from 2 to 6 years, in both cases with the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 4 to 7 years.

Article 242[2]. Arranged bets

(1) Betting on a sports event or other betting event, or informing other persons about the existence of an agreement regarding the manipulation of that event in an attempt to make them participate in the respective bet, committed by a person who knows with certainty about the existence of an arrangement regarding the gerrymander of the respective event,
shall be punishable by a fine from 2350 to 4350 conventional units, and the legal person shall be punishable by a fine from 6000 to 8000 conventional units, with the deprivation of the right to exercise a particular activity.

(2) Actions provided for in para. (1):

a) committed by an organized criminal group or by a criminal organization;

b) that caused damage in exceptionally high proportions, shall be punishable by a fine from 3350 to 5350 conventional units or by imprisonment from up to 3 years, and the legal person shall be punishable by a fine from 9000 to 11000 conventional units, with the deprivation of the right to exercise a particular activity.

Article 242[3]. Infringement of the legislation on the organization and conduct of gambling which constitutes a state monopoly

(1) The organization and conduct on the territory of the Republic of Moldova of activities in the field of gambling which constitute a state monopoly, by unauthorized persons, as well as any actions of import, promotion, support, intermediation, facilitation or encouragement of such activities, including the provision of payment or electronic payment services under the conditions of Law no. 114/2012 on payment services and electronic money in favor of persons not authorized to organize and carry out in the territory of the Republic of Moldova activities in the field of gambling which constitute a state monopoly,

shall be punishable by a fine from 2000 to 4000 conventional units, and the legal person shall be punishable by a fine from 6000 to 8000 conventional units, with the deprivation of the right to exercise a particular activity.

Article 243. Money Laundering

(1) Money laundering committed by:

a) the conversion or transfer of goods by a person who knew or should have known that such goods were illegal earnings in order to conceal or to disguise the illegal origin of goods or to help any person involved in the commission of the main offence to avoid the legal consequences of these actions;

b) the concealment or disguise of the nature, origin, location, disposal, transmission, or movement of the real property of the goods or related rights by a person who knew or should have known that such were illegal income;

c) the acquirement, possession or use of goods by a person who knew or should have known that such were illegal earnings;

d) the participation in any association, agreement, complicity through assistance, help or advice on the commission of actions set forth in letters a)-c);

shall be punished by a fine in the amount of 1350 to 2350 conventional units or by imprisonment for up to 5 years, in both cases with (or without) the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal person shall be punished by a fine in the amount of 8000 to 11,000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal person.

(2) The same actions committed:

b) by two or more persons;

c) by using of an official position,

shall be punished by a fine in the amount of 2350 to 5350 conventional units or by imprisonment for 4 to 7 years, with a fine imposed on the legal person, from 10000 to 13000 conventional units, with the deprivation of the right to exercise certain activities or with the liquidation of the legal person;

(3) The actions set forth in par. (1) or (2) committed:

a) by an organized criminal group or a criminal organization;

b) in extremely large proportions;

shall be punished by imprisonment for 5 to 10 years, with a fine imposed on the legal person, from 13000 to 16000 conventional units or with the liquidation of the legal person.

(4) Illegal actions shall also be acts committed beyond the territory of the country provided that such acts include the constitutive elements of an offence in the state where they were committed and may be the constitutive elements of an offence committed on the territory of the Republic of Moldova.

Article 244. Tax Evasion by Enterprises, Institutions, and Organizations

(1) The tax evasion of enterprises, institutions and organizations, in the accounting books, tax and/or financial books, including electronic ones, either by including some obviously erroneous data on revenues or expenditures that have no actual operations as a basis or that are based on operations that did not exist, or by intentional hiding of some taxable objects, accounting, tax and/or financial papers, if the cumulative amount of the tax, fee set in the Tax Code, social security contributions or health insurance premium for the fiscal year exceeds 50 forecasted average monthly salaries in the economy, as set by the government decision in force at the moment of committing the act,

shall be punished with a fine of 3500 to 5000 conventional units, or imprisonment up to 2 years and 6 months, with deprivation of the right to hold certain positions or to exercise a certain activity for a period of up to 5 years, and the legal person is punished with a fine of 5,000 to 8,000 conventional units, with deprivation of the right to exercise a certain activity or with the liquidation of the legal person.

(2) The same action:

b) if the cumulative tax amount envisaged by the Tax Code, the social insurance contribution and the health insurance contribution for the fiscal year exceeds 100 forecasted average monthly salaries in the economy, as set by the government decision in force at the moment of committing the act shall be punished with a fine of 5000 to 7000 conventional units or imprisonment of up to 5 years, with deprivation of the right to hold certain positions or to exercise a certain activity for a period of 2 to 5 years, and the legal person is punished with a fine of 10000 to 16000 conventional units, with deprivation of the right to exercise a certain activity or with the liquidation of the legal person.

Article 245. Abuses in Issuing financial instruments

(1) Inclusion in offering circulars or other documents based on which issuing financial instruments is registered of inauthentic or misleading information or deliberate approval offering circulars that contain inauthentic or misleading information and the approval of the results of an obviously inauthentic issue, provided that such actions cause damages of large proportions shall be punished by a fine in the amount of 3000 to 6000 conventional units or by imprisonment for up to 3 years, in both cases with (or without) the deprivation of the right to hold certain positions or to practice certain activities for up to 5 years, whereas a legal entity shall be punished by a fine in the amount of 2000 to 4000 conventional units with the deprivation of the right to practice certain activities.

(2) The same actions:

b) committed by two or more persons;

c) causing damages of extremely large proportions;

shall be punished by a fine in the amount of 2350 to 3350 conventional units or by imprisonment for 1 to 6 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for up to 5 years, whereas a legal entity shall be punished by a fine in the amount of 4000 to 7000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

Article 245[1]. Manipulation on the capital market

Capital market manipulation actions through at least one of the following actions, if it caused extended damages:

a) transactions or trading orders that offer or may offer false or misleading information on the demand, offer or price of financial instruments, or which, through the action of one or more persons acting in concert, influence the pricing of one or more financial instruments at an abnormal or artificial level;

b) performance of fictitious or deceitful transactions;

c) application of fictitious trading orders;

d) the broadcasting and/or dissemination through the mass media, including via the Internet or by any other means, of information which offer or may offer false indications on the financial instruments if the person who broadcasted the information knew or should have known that the information in question is false, shall be punishable by a fine from 1350 to 2350 conventional units or by imprisonment of up to 3 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 2 years, and the legal person shall be punishable by a fine from 3000 to 5000 conventional units, with the

deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

(2) The same actions that caused damage in exceptionally high proportions, shall be punishable by a fine from 2350 to 3350 conventional units or by imprisonment from 1 to 6 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 5000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

Article 245[2]. Breach of the legislation on keeping of holders of securities/shares in investment funds register

Admitting unauthorized persons' access to data from the accounts of the holders of securities/units in investment funds and/or the deliberate inclusion in the accounts of the holders of securities/units in investment funds of misleading, distorted, false information followed by the transfer of the ownership to another person and/or the issuance by the entity that holds the record of the securities holders, of the list of shareholders, in other cases than those provided by the law, and/or the refusal to issue the list of shareholders, the statement of account, and/or the use of the list of shareholders by any person for the purpose of acquiring or alienating the shares of the company, if such actions have caused extended damages, shall be punished with fine by a fine in the amount of 1350 to 2350 conventional units or with imprisonment for up to 3 years, in both cases with (or without) deprivation of the right to occupy certain positions or to exercise a certain activity for period of up to 5 years, and the legal person shall punished by a fine in the amount of 2000 to 4000 conventional units with the deprivation of the right to exercise a certain activity or with the liquidation of the legal person.

(2) The same actions committed by imprudence that causes damages of extremely large proportions shall be punished by a fine of up to 500 conventional units or by imprisonment for up to 2 years.

(3) The actions described in par. (1):

b) that causes damages of extremely large proportions

shall be punished by a fine in the amount of 2350 to 3350 conventional units or by imprisonment for 1 to 6 years, in both cases with (or without) the deprivation of the right to hold certain positions or to practice certain activities for up to 5 years, whereas a legal entity shall be punished by a fine in the amount of 4000 to 7000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity

Article 245[3]. Abusive use of inside information on the capital market

(1) Use by any person of inside information with the intention to acquire or alienate, for themselves or on behalf of a third party, directly or indirectly, the financial

instruments to which such information relates, if such actions have caused extended damages, shall be punishable by a fine from 1350 to 2350 conventional units or by imprisonment of up to 2 years, in both cases with (or without) deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 5 years, and the legal person shall be punishable by a fine from 3000 to 5000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

(2) The same actions:

followed by the acquisition or disposal of financial instruments;

that caused damage in exceptionally high proportions, shall be punishable by a fine from 1350 to 3350 conventional units or by imprisonment from 1 to 6 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 4000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

Article 245[4]. Violation of provisions on the conclusion of transactions with the assets of the trading company

(1) Violation of the manner in which large transactions and/or transactions with conflicts of interest are concluded within the trading company, if such actions have caused extended damages,
shall be punishable by a fine of up to 3000 conventional units or by imprisonment of up to 2 years, in all cases, with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 3 years.

(2) The same actions that caused damage in exceptionally high proportions, shall be punishable by a fine from 3000 to 9000 conventional units or by imprisonment from 4 to 6 years, in all cases, with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 up to 5 years.

Article 245[5]. Deliberate refusal to disclose and/or present the information provided by the legislation on the non-banking or banking financial market

(1) The deliberate refusal to disclose and/or to present information on the economic and financial activity of the joint stock company, the ownership of the shares, the reports, statements, constitutive acts or events affecting the issuer, the information whose presentation or disclosure is mandatory or the intentional presentation of misleading, distorted or false information, if such actions have caused extended damages,

shall be punishable by a fine from 2350 to 3350 conventional units, and the legal person shall be punishable by a fine from 4000 to 7000 conventional units.

(2) The same actions that caused damage in exceptionally high proportions or have led to the insolvency proceedings,

shall be punishable by a fine from 2350 to 3350 conventional units or by imprisonment from 1 to 6 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 4000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

Article 245[6]. Practicing activities in the non-banking financial market in violation of the licensing conditions (authorization)

Non-compliance by the participant to the non-banking financial market of the licensing (authorization) conditions, of the prudential rules established by the law and by the normative acts of the National Commission of the Financial Market, if such actions have caused extended damages,

shall be punishable by a fine from 850 to 2350 conventional units with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 5 years, and the legal person shall be punishable by a fine from 2000 to 4000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

(2) The same actions that caused damage in exceptionally high proportions or have led to the initiation of the insolvency proceedings,

shall be punishable by a fine from 1350 to 3350 conventional units or by imprisonment of up to 3 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 4000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

Article 245[8]. Violation of the legislation in performing the activity of evaluating the securities and assets related to them

(1) Conducting the evaluation activity of securities and assets that relate to them in violation of the requirements set out in the legislation, if such actions have caused extended damages,

shall be punishable by a fine from 850 to 2350 conventional units with (or without) the deprivation of the right to hold certain positions or to perform a particular activity for a period of up to 5 years, and the legal person shall be punishable by a fine from 3000 to 5000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

(2) The same actions that caused damage in exceptionally high proportions or have led to the insolvency proceedings,

shall be punishable by a fine from 1350 to 3350 conventional units or by imprisonment of up to 3 years, in both cases with (or without) the deprivation of the right to hold

certain positions or to perform a particular activity for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 5000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

Article 245[11]. Violation of legislation on the activity of non-state pension funds

(1) Violation of the legislation on the activity of non-state pension funds which have caused extended damages by:

a) presentation of erroneous information or refusal to give information on investments, the state of pension assets;

b) inclusion in the reports submitted in accordance with the provisions of the legislation of erroneous data;

c) submission by the beneficiary of false or misleading documents in order to receive in advance the accumulated funds;

d) acquiring, on the basis of false or misleading documents, the funds accumulated in the fund;

e) non-transfer by the employer in the fund of the breakdowns of the fund member's salary;

f) disclosure of information on the status of retirement accounts and payment of supplementary pension by a person in charge of the fund;

g) the premeditated action of the manager, the depositary of the assets of the fund or the auditor, which has caused damages to the members of the fund,
shall be punishable by a fine from 850 to 3350 conventional units or with unpaid community work from 160 to 240 hours, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 5 years, and the legal person shall be punishable by a fine from 2000 to 4000 conventional units, with the deprivation of the right to exercise a particular activity.

(2) The same actions that caused damage in exceptionally high proportions:
shall be punishable by a fine from 2350 to 3350 conventional units or by imprisonment of up to 2 years, in both cases with the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 5 years, and the legal person shall be punishable by a fine from 4000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

Article 245[12]. Violation of the legislation on the activity of credit history offices

(1) Obtaining, using for other purposes or otherwise than provided by law and/or disclosure in any form by credit history offices, credit history users, credit history sources, as well as by individuals in positions of responsibility thereof, of the

information that constitutes the trade secret of the credit history office, the credit history source, the credit history subject, or the credit history user, if such actions have caused extended damages,
shall be punishable by a fine from 850 to 2350 conventional units, with the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 5 years, and the legal person shall be punishable by a fine from 2000 to 5000 conventional units, with the deprivation of the right to exercise a particular activity.

(2) Deliberate failure to present information in the volume established by the law or its deliberate misrepresentation to the office of credit histories by the credit history sources, as well as by persons in a position of responsibility thereof, if such actions have caused extended damages,

shall be punishable by a fine from 850 to 2350 conventional units with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 5 years, and the legal person shall be punishable by a fine from 2000 to 4000 conventional units, with the deprivation of the right to exercise a particular activity.

(3) Providing and/or using, and/or illegal management of the information that characterizes the compliance by the debtors of the obligations assumed by credit agreements and/or loan agreements by legal entities that do not have licenses for the activity of the credit history office, as well as by the persons in a position of responsibility thereof, if such actions have caused extended damages,
shall be punishable by a fine from 850 to 2350 conventional units with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of up to 5 years, and the legal person shall be punishable by a fine from 2000 to 4000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

(4) Actions provided for in para. (1), (2) or (3) that caused damage in exceptionally high proportions

shall be punishable by a fine from 1350 to 3350 conventional units or by imprisonment of up to 3 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 4000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

Article 246[2]. Falsification and counterfeiting of products

(1) Falsification of products, that is, their manufacture for the purpose of marketing without accompanying, provenance, quality and compliance documents, as well as the urging of third parties to perform such action committed in large proportions, shall be punishable by a fine from 1350 to 2350 conventional units or by imprisonment of up to 1 year, with a fine imposed on the legal person, from 4500 to 6000

conventional units, with the deprivation of the right to exercise a particular activity for a term from 1 to 5 years.

(2) Counterfeiting of products, that is the actions specified in para. (1) with respect to products which constitute or include a protected intellectual property, as well as the urging of third parties to perform such action, committed in large proportions, shall be punishable by a fine from 1350 to 2350 conventional units or by imprisonment of up to 1 year, with a fine imposed on the legal person, from 4500 to 6000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 1 to 5 years."

Article 248. Smuggling

(1) Transportation of goods whose value exceeds 100 forecasted average monthly wages, as per the Government Decision in force at the time of the deed across the customs border of the Republic of Moldova circumventing customs control or concealing the goods from customs control by hiding them in compartments specially prepared or adjusted for this purpose or fraudulently using documents or other means of customs identification or involving the non-declarations or inauthentic declarations in customs documents or in other border-crossing documents shall be punished by a fine in the amount of 1500 to 2000 conventional units or by community service for 180 to 240 hours or by imprisonment for up to 2 years, whereas a legal entity shall be punished by a fine in the amount of 2000 to 4000 conventional units with the deprivation of the right to practice certain activities.

(2) The transportation of narcotic drugs, ethnobotanicals, toxic, poisonous, radioactive and explosive substances, and substances that produce strong effects, as well as noxious waste and double-purpose products across the customs border of the Republic of Moldova circumventing customs control or concealing the goods from customs control by hiding them in compartments specially prepared or adjusted for this purpose or fraudulently using documents or other means of customs identification or involving non-declarations or inauthentic declarations in customs documents or in other border-crossing documents shall be punished by a fine in the amount of 550 to 950 conventional units or by imprisonment for up to 5 years, whereas a legal entity shall be punished by a fine in the amount of 4000 to 6000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

(3) The transportation of weapons, explosive devices, and ammunition across the customs border of the Republic of Moldova circumventing customs control or concealing the goods from customs control by hiding them in compartments specially prepared or adjusted for this purpose or fraudulently using documents or other means of customs identification or involving non-declarations or inauthentic declarations in customs documents or in other border-crossing documents shall be punished by a fine in the amount of 650 to 1150 conventional units or by imprisonment for 4 to 6 years, whereas a legal entity shall be punished by a fine in the amount of 6000 to 11,000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

(4) The transportation of goods of cultural value across the customs border of the Republic of Moldova circumventing customs control or concealing the goods from customs control by hiding them in compartments specially prepared or adjusted for this purpose as well as the failure to return to the territory of the Republic of Moldova items of cultural value taken out of the country if their return is mandatory shall be punished by imprisonment for 3 to 8 years, whereas a legal entity shall be punished by a fine in the amount of 6000 to 11,000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

(5) The actions set forth in par. (1), (2), (3) or (4) committed:

b) by two or more persons;

c) by an official with the use of his/her official position;

d) in the value of the amount of import rights exceeding 200 forecast average monthly wages, as per the Government Decision in force at the time of the deed,

shall be punished by imprisonment for 3 to 10 years, whereas a legal entity shall be punished by a fine in the amount of 6000 to 11,000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

Article 248[1]. Smuggling of excise goods

The introduction or removal from the territory of the Republic of Moldova of goods subject to excise duties, through places established for customs control, by concealment of customs control, by concealment in places specially prepared or adapted for this purpose, means of customs identification, or by non-declaration or inauthentic declaration in customs documents or other border documents, if the value of the goods is more than 4000 conventional units, and in the case of filtered or unfiltered cigarettes - a quantity greater than 60,000 pieces.

Article 249. Evasion from customs payments

(1) Evading customs payments in large proportions shall be punished by a fine of up to 650 conventional units or by community service for 120 to 180 hours, whereas a legal entity shall be punished by a fine in the amount of 2000 to 3000 conventional units.

(2) The same action committed:

b) by two or more persons

shall be punished by a fine in the amount of 550 to 850 conventional units or by community service for 180 to 240 hours, whereas a legal entity shall be punished by a fine in the amount of 2500 to 3000 conventional units.

(3) Evading import rights in extremely large proportions shall be punished by a fine in the amount of 850 to 1350 conventional units or by community service for 180 to 240 hours, whereas a legal entity shall be punished by a fine in the amount of 3000 to 6000 conventional units.

Article 250. Transportation, Storage, or Marketing of Excised Goods without Marking Them with Control Stamps or Excise Stamps

(1) The transportation, storage, or marketing of excised goods without marking them with control stamps or excise stamps of the set model provided that such actions cause damages of large proportions shall be punished by a fine in the amount of 850 to 1350 conventional units, whereas a legal entity shall be punished by a fine in the amount of 2000 to 4000 conventional units with the deprivation of the right to practice certain activities.

(2) The same actions involving:

a) marking with stamps other than those of the set model;

b) damages of extremely large proportions;

shall be punished by a fine in the amount of 1350 to 1850 conventional units, whereas a legal entity shall be punished by a fine in the amount of 4000 to 7000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

Article 250[1]. Counterfeiting of state marking stamps, placement into circulation and use thereof

(1) Counterfeiting of state marking stamps, placement into circulation and use thereof, as well as the manufacture, sale of articles of precious metals and precious stones with false markings
shall be punishable by a fine from 2025 to 3525 conventional units or by imprisonment of up to 3 years, in both cases with (or without) the deprivation of the right to occupy certain positions or to exercise a certain activity for a period from 2 to 5 years, with a fine imposed on the legal person, from 8000 to 11000 conventional units or deprivation to exercise a particular activity, or with the liquidation of the legal person.

(2) The same actions committed:

a) by an organized criminal group or by a criminal organization;

b) in exceptionally high proportionsshall be punishable by imprisonment from 5 to 10 years, and the legal person shall be punishable by a fine from 10000 to 13000 conventional units, with the deprivation of the right to exercise a particular activity or with the liquidation of the legal person.

Article 251. Appropriation, alienation, in cases not permitted by law, concealment of pledged, frozen, leased, seized or confiscated goods

The appropriation, alienation, in cases not permitted by law, concealment of pledged, frozen, leased, seized or confiscated goods or their use for other purposes by a person to whom such goods were entrusted or who was obliged, under the law, to ensure their integrity shall be punished by fine in amount of 1350 to 1850 conventional units or by imprisonment for up to 3 years, in both cases with (or without) deprivation of the right to hold certain positions or to practice certain activities for up to 3 years, whereas the legal entity shall be punished by a fine in the amount of 1000 to 3000 conventional units with the deprivation of the right to practice certain activities.

Article 252. Deliberate Insolvency

(1) Deliberate insolvency that causes damages of large proportions to the creditor shall be punished by a fine in the amount of 650 to 850 conventional units or by imprisonment for up to 2 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for up to 5 years.

(2) The same action:

a) committed by two or more persons;

b) causing damages of extremely large proportions;

shall be punished by a fine in the amount of 850 to 1350 conventional units or by imprisonment for up to 3 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for up to 5 years.

(3) Causing the insolvency of the bank, through intentional actions or inactions of the director thereof, including through excessive spending, sale of the bank's assets at a price below their real value, assuming unreasonable obligations, engaging in business relationships with an insolvent person, omitting the collection of bank’s receivables at maturity or in any other manner contrary to good management, which deliberately diminishes the bank's patrimony,

shall be punishable by imprisonment from 4 to 6 years and with a fine from 2350 to 3350 conventional units.

(4) Actions provided for in para. (3) committed:

a) by a group of directors and/or shareholders;

b) in order to avoid payment of claims and restarting the banking business

shall be punishable by imprisonment from 5 to 6 years and with a fine from 2850 to 3350 conventional units.

Article 253. Fictitious Insolvency

(1) Fictitious insolvency that causes damages of large proportions to the creditor shall be punished by a fine in the amount of 650 to 950 conventional units or by

imprisonment for up to 3 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for up to 5 years.

(2) The same action:

a) committed by two or more persons;

b) causing damages of extremely large proportions;

shall be punished by a fine in the amount of 850 to 1350 conventional units or by imprisonment for up to 4 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for up to 5 years.

Article 257. Low Quality Construction Work

(1) Commissioning living quarters; industrial construction; construction in the field of transportation and power engineering; other low quality, unfinished, or planned non-compliant construction by the managers of construction organizations, managers of construction sites, and officials responsible for the control of construction quality shall be punished by a fine in the amount of 650 to 950 conventional units with the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 2000 to 4000 conventional units with the deprivation of the right to practice certain activities.

(2) The continuation by responsible persons of improperly executed work terminated as a result of control acts, when such work can affect the resistance and stability of the construction shall be punished by a fine of up to 550 conventional units, whereas a legal entity shall be punished by a fine in the amount of 4000 to 6000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

(3) The planning, inspection, and building by responsible persons of an urban complex or a construction or making changes to such construction by violating the provisions of legal documents on safety, resistance, and stability provided that such actions resulted in:

a) severe bodily injury or damage to health of a person or loss by a person of the ability to work;

b) complete or partial destruction of the construction;

c) destruction or malfunctioning of important units or equipment;

d) damages of large proportions;

shall be punished by a fine in the amount of 550 to 950 conventional units or by imprisonment for up to 5 years, whereas a legal entity shall be punished by a fine in the amount of 6000 to 11000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

(4) The actions set forth in par. (3) that caused death of a person shall be punished by imprisonment for 5 to 10 years, whereas a legal entity shall be punished by a fine in the amount of 6000 to 11,000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

The applicable definition of complicity in economic crimes is the same as in general cases, as established in art. 42 para. 5) of the Criminal Code of the Republic of Moldova: The person who contributed to the commission of the crime through advice, guidance, information, provision of means or tools or removal of obstacles is considered complicit, as well as the person who previously promised to favor the offender, will conceal the means or instruments of commission. of the crime, its traces or the objects acquired by criminal means or the person who promised in advance that he will procure or sell such objects.

38. Please identify the relevant provisions in the legislation concerning the liability of legal persons.

CRIMINAL CODE of the Republic of Moldova no. 985/2002:

GENERAL PART

(…)

Article 21. Subject of the Crime

(…)

(3) A legal person, with the exception of public authorities, shall be liable of criminal liability for an act provided for by the criminal law if it has failed to fulfil, or has inadequately fulfilled, the direct provisions of the law, establishing duties or prohibitions on conducting certain activities and at least one of the following circumstances was found:

a) the act was committed in the interest of the respective legal person by a natural person vested with management powers, who acted independently or as part of a body of the legal person;

b) the act was admitted or authorized, or approved, or used by the person vested with management powers;

c) the act was committed due to the lack of supervision and control of the person vested with management powers.

(3/1) A natural person shall be considered to be vested with management powers if he/she has at least one of the following powers:

a) of representation of the legal person;

b) of making decisions on behalf of the legal person;

c) of exercising control within the legal person.

(4) Legal persons, except for public authorities, shall be criminally liable for offences punishable in line with the special part of this Code applicable to legal entities.

(5) The criminal liability of a legal person does not exclude the liability of the individual for the offence committed.

CRIMINAL PROCEDURE CODE of the Republic of Moldova no.122/2003

(…)

Chapter VI

PROCEDURES FOR CRIMINAL INVESTIGATIONS AND HEARING CASES

INVOLVING CRIMES COMMITTED BY LEGAL ENTITIES

Article 520. General Provisions

A criminal investigation and hearing cases involving crimes committed by legal entities shall comply with the usual procedures with additions and exceptions provided in this Chapter.

Article 521. Representation of the legal person in criminal proceedings

(1) The criminal investigation and trial of the case against the legal person shall be carried out with the participation of its legal representative.

(2) If the criminal investigation or trial of the case against the legal person is carried out for the same deed or for related facts regarding also its legal representative, the legal person shall designate, within 5 days from the date of notification of the ordinance recognizing the person as a suspect or within 48 hours from the date of notification of the indictment, another representative in respect of whom no criminal proceedings are being conducted.

(2/1) If the legal person has not appointed a representative according to par. (2), at the request of the prosecutor, the investigating judge or, as the case may be, the court shall appoint a representative of the legal person from among the persons managing the legal person, in respect of whom no criminal proceedings are conducted.

(2/2) In the absence of persons managing the legal person, the prosecutor or the court shall request the coordinator of the territorial office of the National Council for State Guaranteed Legal Aid to appoint a lawyer to provide state-guaranteed legal aid. In this case, the provisions of par. (3) shall apply accordingly if there are no situations which justify the replacement of the lawyer.

(3) The legal representative or, as the case may be, the representative of the legal person, appointed according to par. (2) and (2/1), represents it when carrying out the procedural actions provided by this Code.

(4) Only coercive measures applicable to the witness may be taken in this capacity against the legal representative or, as the case may be, against the designated representative of the legal person against whom the criminal investigation is being carried out.

Article 522. Territorial Competence

(1) If crimes are committed by legal entities the territorial competence shall be determined by:

1) the place of the commission of the crime;

2) the place the perpetrator was detected;

3) the place of the domicile of a perpetrator who is an individual;

4) the venue of the legal entity;

5) the place of domicile or the venue of the victim.

(2) The provisions in arts. 40 and 42 shall correspondingly apply to hearing cases on crimes committed by legal entities.

Article 523. Judicial Control of a Legal Entity

(1) In order to ensure the efficient unfolding of a criminal proceeding and upon a motion of the prosecutor, the investigative judge or as the case may be the court, if it deems it necessary, may decide to place a legal entity under judicial control.

(2) By deciding on the measure provided in para. (1), the legal entity may be enjoined to meet one or several of the following obligations:

1) to deposit bail set by the investigative judge or by the court, the amount of which may not be less than 1000 conventional units;

2) not to practice certain activities if the crime was committed in the course of practicing or in relation to practicing these activities;

3) not to issue certain checks or to use payment cards.

(3) The ruling of the investigative judge or, as the case may be, of the court on placing a legal entity under judicial control may be appealed within the timeframe and in the manner provided in arts. 308-311.

…

Please refer also to the offences mentioned in the answer to question 36 above *(sanctions applicable to the legal persons)*.

39. Please identify the relevant provisions in the legislation concerning the possible seizure, confiscation of material gain or removal measures for results and instruments of economic crimes as well as obligation to safeguard evidence in the cases of suspected fraud.

According to Art. 98 from the Criminal Code of the Republic of Moldova, among the security measures are applied including: d) special confiscation. e) extended confiscation.

Criminal Code of the Republic of Moldova no. 985/2002:

Article 106. Special Confiscation

(1) Special confiscation shall consist in the, forceful and gratuitous, passing to the state property of the goods indicated in para. (2). If such goods no longer exist, cannot be found or cannot be recovered, the counter value thereof shall be confiscated.

(2) The following goods (including currency values) shall be subject to special confiscation

a) used or intended to be used to commit an offence;

b) resulted from offences, as well as any incomes from these goods;

c) provided to determine the commission of an offence or to pay the perpetrator;

e) possessed contrary to legal provisions;

f) converted or transformed, partially or integrally, from goods resulted from offences and from incomes accrued from such goods;

g) which are the object of money laundering or terrorist financing offences.

(2^1) If the goods resulted from offences and the incomes accrued from such goods have been mixed with legally obtained goods, subject to confiscation shall be the part of such goods or their equivalent value that correspond to the value of goods resulted from offences and of the incomes accrued from such goods.

(3) If the goods referred to in para. (2) let. a) and b) belong or have been onerously transferred to a person who did not know and should not have known about the purpose of using or the origin of the goods, their corresponding value shall be confiscated. If the respective goods were transferred free of charge to a person who did not know and should not have known about the purpose of their using or their origin, the goods shall be confiscated.

(4) Special confiscation may be applied even in cases when a criminal punishment is not established for the perpetrator.

(5) Special confiscation shall not be applied for offences committed through a press agency or any other type of mass media.

Article 106[1]. Extended confiscation

(1) Other assets than those referred to in Art. 106 shall also be subject to confiscation if the person is convicted of committing the offences referred to in Articles 158, 165, 206, 208[1], 208[2], 217–217[4], 218–220, 236–240, 243, 248–253, 256, 260[3], 260[4], 279, 280, 283, 284, 290, 292, 302, 324–329, 330[2], 332–335[1] and if the act was committed in the material interest.

(2) Extended confiscation shall be ordered if the following conditions are cumulatively met:
a) the value of the assets acquired by the convicted person for 5 years prior and after committing the offence, up to the date of the adoption of the sentence, substantially exceeds the incomes lawfully acquired by the convicted person;

b) the court finds, on the basis of the evidence presented in the file, that the respective goods originate from criminal activities of the nature referred to in para. (1).

(3) The application of the provisions of para. (2) shall also take into account the value of the assets transferred by the convicted person or by a third person to a family member, to the legal persons over whom the convicted person has control or to other persons who knew, or should have known, of the illicit acquisition of the goods.

(4) When establishing the difference between the legal incomes and the value of acquired assets, the value of assets at the date of their acquirement and the expenses made by the convicted person shall be taken into account, including the persons referred to in para. (3).

(5) If the goods subject to confiscation are not found or have been merged with the legally acquired property, money and goods shall be confiscated instead, in order to cover their value.

(6) The goods and money obtained from the exploitation or use of the goods subject to confiscation, shall also be confiscated, including the goods in which the goods originating from criminal activities, as well as the incomes or benefits obtained from such goods, have been transformed or converted.

(7) Confiscation may not exceed the value of the goods acquired during the period referred to in para. (2), let. a), which exceeds the level of licit incomes of the convicted person.

Criminal Procedure Code of the Republic of Moldova no.122/2003:

Article 126. Grounds Picking up Objects or Documents

(1) The criminal investigative body, based on a reasoned order, shall have the right to pick up any objects or documents important for the criminal case if the evidence obtained or the special investigative activity materials refer precisely to the place and the person holding them.

(2) The picking up of documents containing information that is a state, trade, banking secret and the seizure of information on telephone conversations shall be allowed only upon the authorization of the investigative judge.

…

Article 202. Measures for Securing the Recovery of Damages, the Eventual Special Confiscation or Extended Confiscation of Goods, and for Guaranteeing the Execution of a Punishment by Fine

(1) A criminal investigative body ex officio or the court at the request of the parties may undertake during a criminal proceeding measures for securing the recovery of damages caused by the crime, for eventual special confiscation or extended confiscation of goods, and for guaranteeing the execution of a punishment by fine.

(2) Measures for securing the recovery of damages caused by the crime, the eventual special confiscation or extended confiscation of goods, and for guaranteeing the execution of a punishment by fine consist of sequestering movable and real property in line with arts. 203-210.

Article 203. Seizure

(1) Seizure is a coercive procedural measure consisting of inventorying the goods and prohibiting the owner or possessor from disposing of those goods or, if necessary, to use such goods. Upon seizing bank accounts and deposits, any operations with those accounts or deposits shall be terminated.

(2) Seizing goods shall be done to secure the recovery of damage caused by the crime, civil claim or eventual special confiscation or extended confiscation of goods or the counter value of the goods provided in art. 106 para. (2) and art. 106^1 of the Criminal Code.

Article 204. Goods Subject to Seizure

(1) In order to repair the damage caused by a crime the goods of the suspect/accused/defendant or of the civilly liable party in the amount of a probable value of the damage may be subject to seizure.

(2) In order to guarantee the execution of the punishment in the form of a fine, only the goods of the accused or the defendant may be subject to seizure, depending the maximum amount of the fine that may be established for a committed crime.

(3) In order to ensure an eventual special or extended confiscation of goods, the goods set forth in art. 106 para. (2) and art. 106^1 of the Criminal Code may be subject to seizure.

(4) If the goods to be subjected to special or extended confiscation do not exist anymore, cannot be found, cannot be recovered or if such goods belong or had been onerously transferred to a person

who did not know and did not have to know about the purpose of the use or the origin of the goods, ensuring measures to confiscate the counter-value of the goods shall be undertaken.

(4^1) If the goods to be seized in order to repair the caused damage or to guarantee the execution of the fine are used or are a part of the technological production process and their forfeiture would determine the unavoidable halt of the economic activity of the party, precautionary measures shall be taken to forfeit their counter value.

(5) Should the goods subject to seizure represent a share of joint property, only the share of the joint property subject to special or extended confiscation may be subject to seizure.

(6) Food of the owner, possessor of the goods, and his/her family members, fuel, specialized literature and professional equipment, dishware and utensils permanently used and not valuable, as well as other essentials may not be subject to seizure, although later they may be subject to confiscation.

Article 205. Grounds for Seizure

(1) Goods may be seized by a criminal investigative body or by the court only if there is a reasonable suspicion that the goods will be hidden, damaged or spent.

(2) Seizing of goods shall be based on an order of a criminal investigative body and the authorization of an investigative judge or, as the case may be, on a court ruling. The prosecutor shall ex officio or at the request of a civil party address to the investigative judge a motion accompanied by the order of the criminal investigative body on the seizing of goods. The investigative judge shall authorize in a resolution the seizing of goods while the court shall decide on the requests of the civil party or of any other party, provided the reasonable suspicion set forth in para. (1) is reasoned.

(3) The order of the criminal investigative body or, as the case may be, the court ruling on seizing goods shall refer to goods subject to seizure to the extent such goods are established in the course of the investigation of the criminal case and the value of those goods is necessary and sufficient to secure a civil action.

(4) Should there be obvious doubt about the voluntary submission of goods to be seized, the investigative judge or, as the case may be, the court along with the authorization for seizing goods shall also authorize a search.

(5) In flagrant crimes or urgent cases, the criminal investigative body shall be entitled to seize goods based on its own order without the authorization of the investigative judge who shall be mandatorily notified thereof immediately or not later than within 24 hours from the moment of this procedural action. Upon receipt of the respective information, the investigative judge shall verify the legality of the seizure and confirm its results or shall declare it invalid. Should the seizure be declared illegal, the investigative judge shall order the total or partial revocation of the seizure.

...

Execution Code of the Republic of Moldova no.443/2004134**:**

Article 293. Special confiscation.

(1) The court that, according to article 106 of the Criminal Code, ordered confiscation of goods used in the commission of a crime or resulting from the crime or their value sends its decision to the bailiff in whose territorial jurisdiction, established by the territorial chamber of bailiffs, are located the goods.

(2) The bailiff lifts and transmits the goods subject to confiscation to the competent authority, as established by the Government. In case of confiscating drugs, psychotropic substances and precursors, weapons and ammunition, the bailiff lifts and transmits them to the competent body.

(3) The bailiff, within five days, informs the court that issued the decision on lifting and transmission of confiscated objects to the competent bodies.

40. What are the requirements of procedural penal law regarding general possibilities for extraterritorial jurisdiction based on the personality principle?

Criminal Code of the Republic of Moldova no. 985/2002:

The Law No. 371/2006 on international legal assistance in criminal matters

Article 1. Purpose and scope of regulation

(1) The purpose of this law is to establish the mechanism for implementing the regulations of the Code of Criminal Procedure, special part title III chapter IX, on international legal assistance in criminal matters, as well as international treaties in the field to which the Republic of Moldova is a party.

(2) The application of this law aims at protecting the interests of sovereignty, security, public order and other interests of the Republic of Moldova, defined by the Constitution.

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(3) The provisions of this law shall apply to the following forms of international legal cooperation in criminal matters:

a) transmission of documents, data and information;

b) communication of procedural documents;

c) summoning witnesses, experts and persons pursued;

d) rogatory commissions;

d^1) joint investigation teams;

e) transfer, upon request, of criminal proceedings;

f) extradition;

g) transfer of convicted persons;

h) recognition of criminal judgments of foreign courts;

i) communication of the criminal record.

(4) In addition to the forms indicated in par. (3), in cooperation with the International Criminal Court, the provisions of this law shall also apply to the following forms of international legal cooperation in criminal matters:

a) surrender of the person, subject to the request of the International Criminal Court;

b) enforcement of judgments of the International Criminal Court;

c) identification of the person, his location and location of the goods;

d) the identification, location and seizure of the proceeds of crime, property, assets and instruments related to the crime, for the purpose of their eventual confiscation, without prejudice to the rights of bona fide third parties;

e) examination of localities, including exhumation and examination of corpses buried in mass graves;

f) conducting searches and seizing;

g) protection of victims, witnesses and storage of evidence;

h) other forms of assistance which are not prohibited by the legislation of the Republic of Moldova, intended to facilitate the investigation and prosecution of offenses the examination of which falls within the jurisdiction of the International Criminal Court.

The principle of personality is provided in Art. 11 from the Criminal Code of the Republic of Moldova:

Article 11. Application of Criminal Law in space

(…)

(2) Citizens of the Republic of Moldova and stateless persons with permanent domiciles in the territory of the Republic of Moldova who commit crimes outside the territory of the country shall be criminally liable under this Code.

(…)

B. Country's capacity for operational cooperation in the field of the protection of the EU´s financial interests

41. The EU acquis requires the legislation to protect the EU funds in the same way as national funds. Does the legislation provide for specific obligations and procedures with regard to the treatment of cases of suspected fraud and other irregularities affecting national, EU or international funds? Does the legislation define any arrangements for cooperation with the Commission and the EU Member States in the investigation, the prosecution and the enforcement of the penalties? Does the legislation include provisions ensuring that information and evidence produced by Commission's investigators receives an equal treatment in line with requirements of Article 325 of the EU Treaty?

Criminal Code:

Article 240. Use, contrary to the purpose, of the resources from internal loans or from external funds

(1) Use, contrary to the purpose, of the resources from internal loans or from external funds, if such act is not an appropriation,

shall be punishable by a fine from 3000 to 4000 conventional units or by imprisonment of up to 3 years, and the legal person shall be punishable by a fine from 4000 to 5000 conventional units, with the deprivation of the right to exercise a particular activity for a term of up to 3 years.

(2) Use, contrary to the purpose, of subsidies, donations or humanitarian aid, in large proportions, if such act is not an appropriation,

shall be punishable by a fine from 4000 to 5000 conventional units or by imprisonment from 2 to 6 years, in both cases with the deprivation of the right to occupy certain positions for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 5000 to 6000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 2 to 5 years.

(3) Use, contrary to the purpose, of domestic loans, grants, credits, as well as of external loans, in large proportions, if such act is not an appropriation,

shall be punishable by a fine from 5000 to 6000 conventional units or by imprisonment from 3 to 6 years, in both cases with the deprivation of the right to occupy certain positions for a period from 3 to 6 years, and the legal person shall be punishable by a fine from 6000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 3 to 5 years or with the liquidation of the legal person.

(4) Actions provided for in para. (2) and (3) committed:

a) by two or more persons;

b) in exceptionally high proportions;

c) by a public person, by a person in a position of responsibility, by a publicly appointed office-holder, by a foreign public person or by an international official

shall be punishable by a fine from 6000 to 8000 conventional units or by imprisonment from 6 to 10 years, in both cases with the deprivation of the right to occupy certain positions for a period from 4 to 7 years, and the legal person shall be punishable by a fine from 7000 to 9000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 4 to 5 years or with the liquidation of the legal person.

Article 332/1. Fraudulent procurement of resources from external funds

(1) Use or presentation of manifestly false, inaccurate or incomplete documents, documentary evidence or data for receiving the approvals or guarantees required for the grant of the financing obtained or guaranteed from external funds, as well as the omission to provide the data required under the law in order to obtain resources from external funds, if the act results in the fraudulent procurement of such financial means,

shall be punishable by a fine from 4000 to 5000 conventional units or by imprisonment from 2 to 5 years, in both cases with the deprivation of the right to occupy certain positions for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 5000 to 6000 conventional units, with the deprivation of the right to exercise a particular activity for a term of up to 3 years.

(2) The same actions:

a) committed by two or more persons;

b) which have caused extended damages;

c) committed by a public person, by a person in a position of responsibility, by a publicly appointed office-holder, by a foreign public person or by an international official

shall be punishable by a fine from 4000 to 6000 conventional units or by imprisonment from 3 to 7 years, in both cases with the deprivation of the right to occupy certain

positions for a period from 3 to 7 years, and the legal person shall be punishable by a fine from 6000 to 8000 conventional units, with the deprivation of the right to exercise a particular activity for a period from 3 to 5 years or with the liquidation of the legal person.

(3) Actions provided for in para. (1) and (2) that caused damage in exceptionally high proportions

shall be punishable by a fine from 7000 to 9000 conventional units or by imprisonment from 4 to 8 years, in both cases with the deprivation of the right to occupy certain positions for a period from 5 to 8 years, and the legal person shall be punishable by a fine from 8000 to 10000 conventional units, with the deprivation of the right to exercise a particular activity for a period from 3 to 5 years or with the liquidation of the legal person.

Article 332/2. Embezzlement of the resources from external funds

(1) Embezzlement of the resources from external funds

shall be punishable by a fine from 3000 to 4000 conventional units or by imprisonment from 2 to 5 years, and the legal person shall be punishable by a fine from 4000 to 5000 conventional units with deprivation of the right to exercise a particular activity for a period of up to 3 years.

(2) The same action committed:

a) by two or more persons;

b) in large proportions;

c) by a public person, by a person in a position of responsibility, by a foreign public person or by an international official

shall be punishable by a fine from 4000 to 6000 conventional units or by imprisonment from 7 to 10 years, in both cases with the deprivation of the right to occupy certain positions for a period from 3 to 6 years, and the legal person shall be punishable by a fine from 5000 to 7000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 2 to 5 years.

(3) Actions provided for in para. (1) and (2) committed:

a) by a publicly appointed office-holder;

b) in exceptionally high proportions;

c) in the interest of an organized criminal group or a criminal organization

shall be punishable by a fine from 6000 to 8000 conventional units or by imprisonment from 10 to 15 years, in both cases with the deprivation of the right to occupy certain positions for a period from 6 to 8 years, and the legal person shall be punishable by a

fine from 7000 to 9000 conventional units, with the deprivation of the right to exercise a particular activity for a term from 2 to 5 years.

42. How are cases of suspected fraud and other irregularities dealt with in practice? Are any data kept on detected cases of suspected fraud and other irregularities (both in revenue and expenditure)? If yes, please provide recent data. Additionally, please indicate the national body (bodies) that has access to this information.

Information on cases of suspected fraud and other irregularities in the Republic of Moldova is registered with the competent authorities and examined according to their responsibilities.

43. Is the country considering setting up specific institutions or bodies for anti-fraud coordination, investigation and/or treatment of cases of suspected fraud and other irregularities affecting national, EU and/or international funds, or are such institutions or bodies already in place? If so, does it/do they have a comprehensive legal basis that defines tasks and responsibilities and cooperation arrangements, including with the European Commission? What is the scope of their competencies? How is their administrative capacity and their operational independence ensured? Have any procedures been defined for the communication, by other national authorities, of cases of suspected fraud and other irregularities to these institutions or bodies? Have any mechanisms been defined for cooperation between these different authorities?

By Government Decision no.1365/2016[135], the National Anti-corruption Centre (NAC) was designated as the main contact point for the European Anti-Fraud Office (hereinafter OLAF), responsible for the cooperation and exchange of information with OLAF on cases of fraudulently obtaining, misuse, embezzlement of foreign assistance means provided by the European Union, corruption and other related acts, which could threaten the financial interests of the European Union. In order to perform this duties, NAC had to designate the structural subdivision responsible for the effective cooperation and exchange of information with OLAF. Thus, by **Order of the NAC Director no.171 of 13.11.2018**, the International Cooperation Directorate of NAC was appointed as a subdivision responsible for cooperation and exchange of information with OLAF.

Cooperation *(with OLAF and the national authorities):*

On 26 October 2015, NAC has signed an Administrative Cooperation Arrangement with OLAF.

NAC has also revised the cooperation inter-departmental agreements, in order to extend and adjust the current cooperation mechanism. There were signed:

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*Protocol amending and supplementing the Collaboration Agreement between the National Anti-corruption Centre and the Ministry of Internal Affairs, signed on February 10, 2016 (**21.07.2017**);*

*Cooperation Agreement between the National Anti-corruption Centre and the State Chancellery in the field of obtaining and using external assistance (**30.08.2017**);*

*Cooperation Agreement between the National Anti-corruption Centre and the Customs Service in the field of obtaining and using external assistance (**29.09.2017**);*

*Cooperation Agreement between the National Anti-corruption Centre and the Ministry of Justice and Additional Protocol no. 1 (regarding external assistance) - (**23.10.2017**);*

*Protocol supplementing the Cooperation Agreement between the National Anti-corruption Centre and the Court of Accounts, signed on April 17, 2013 (**18.01.2018**).*

*Cooperation Agreement between NAC and the General Prosecutor's Office (**27.11.2018**)*

*Protocol supplementing the Cooperation Agreement between the National Anti-corruption Centre and the Ministry of Finance (**10.04.2020**)*

*Cooperation Agreement between NAC and the National Intergity Authority (**25.07.2018**).*

<u>Secure information exchange with OLAF</u>:

In July 2018, NAC has gained access (user account) to the secure e-mail within the Anti-Fraud Information System (**AFIS Mail**) of the European Anti-Fraud Office (OLAF).

Participation in joint international operations, under the aegis of OLAF; Participation in the thematic meetings or training activities organized by OLAF:

NAC participates as an **observer** at the **AFCOS** (anti-fraud coordination services) seminars. Thus, NAC representatives have participated at the following AFCOS seminars:

7-9 June 2017, Budva, Montenegro

20-22 June 2018, Sarajevo, Bosnia and Herzegovina

18-20 September 2019 in Skopje, North Macedonia

Also, NAC representatives have participated at:

Conference "EU Funded actions: Detecting, Handling, Learning how to prevent Frauds and Irregularities in International Cooperation and Development Projects

(IPA and ENI)" held on 19 October 2018, in Tbilisi, Georgia (event that was supported by the European Union Programme Hercule III (2014-2020));

***2018** – OLAF digital forensics training*

With regard to communication of fraud, corruption and irregularities:

National Anti-corruption Centre, through the Ministry of Foreign Affairs and European Integration (MFAEI), presents, on an anual basis, to the European Commission the information regarding the cases of fraud, corruption or other irregularities, detected in the process of implementing the European Union financed Projects. The same information is sent to OLAF through the Anti-fraud Information System (AFIS Mail).

Requests sent by NAC to OLAF:

*2017 - **1***

*2018 - **2***

Requests received by NAC from OLAF:

*2017 – **3***

*2018 – **4***

*2019 – **3***

*2021 – **4***

44. Have any mechanisms been defined for cooperation with the EU authorities and guaranteeing sufficient assistance to Commission's investigators during their anti-fraud investigations? Is there already a track record of investigation activities and on-the-spot checks between competent national authorities and the Commission? If yes, please provide recent data.

Cooperation with the EU authorities:

Pusuant to the above mentioned Government Decision, Administrative Cooperation Arrangement and the provisions of the Association Agreement, the National Anti-corruption Centre (NAC) shall assist OLAF in carrying out inspections and on-the-spot checks for combating the illegal acts which affect the financial interests of the European Union.

With regard to *on-the-spot checks*, in the period 25.01.2021-03.02.2021, representatives of the European Investment Bank, together with a team of investigators from the European Anti-Fraud Office carried out parallel missions *(on-the-spot checks)* to investigate suspected misconduct affecting the EU budget by a State Enterprise from Moldova. The purpose of the on-the-spot check was to obtain information and collect

relevant evidence through digital forensic operation, review of documents, forensic review of electronic data, and interview of witnesses. The National Anticorruption Centre (NAC) has assisted OLAF and the European Investment Bank in carrying out their missions.

On 02.05.2018, in Luxembourg, NAC has signed a *Memorandum of Understanding (MoU) with the European Investment Bank (EIB)*, which implies the following cooperation activities:

Exchange of information, as part of respective investigations into fraudulent practices and related offences

Operational cooperation *(rendering assistance to each other for respective investigations and other operational activities)*

Technical cooperation *(technical investigation tools; methods for processing and analysing investigation data; information technology (IT) expertise or equipment for investigations)*

Requests received by NAC from EIB:

2017 – 2

2019 – 1

2020 – 1

2021 – 1

45. Has the country established a mechanism for reporting of irregularities and suspected fraud cases (expenditures/revenues), including the Irregularity Management System and reporting procedures?

There is no formal and institutionalized Irregularity Management System in place. Nevertheless, the institutions have established their own mechanisms for reporting irregularities and suspected fraud cases (described above, see p. 13 - Financial Inspection, p. 27 e) - Court of Accounts).

In the context of cross-border and transnational cooperation EU-funded programmes, there are in place procedures, approved by the minister of finance's order, to manage irregularities occurred during the project implementation:

a. Operational procedure for the prevention, detection and correction of irregularities, applicable at the level of the National Management Authority for Cross-border and Transnational Cooperation Programmes.

According to this procedure, the National Authority (Ministry of Finance) has the responsibility, once notified, to take all necessary measures to prevent, detect and correct irregularities committed by beneficiaries/partners in the Republic of Moldova, while notifying the Managing Authority (Ministry of Development, Public Works and Administration of Romania or Ministry of Finance of Hungary), and in case of detection of fraud and corruption - immediately informing the National Anticorruption and Antifraud Authority (National Anticorruption Centre).

b. Operational procedure for the recovery of EU funds obtained/used through irregularities, fraud or corruption.

The purpose of the procedure is to establish how the work of recovering EU funds obtained/used through irregularities, fraud or corruption is to be carried out, the deadlines involved, the directorates and staff involved, and to ensure the continuity of the work of recovering EU funds obtained/used through irregularities, fraud or corruption. The given procedure involves the recovery of EU funds from the lead beneficiary/grant beneficiary.

At the same time, according to the provisions of art. 21 (Annex of the GD 576/2017) the National Anti-Corruption and Anti- Fraud Authority is the National Anti-Corruption Centre, which carries out activities to prevent and combat corruption and fraud for the Programmes, on the basis of Law No 1104-XV of 6 June 2002 on the National Anti-Corruption Centre and the cooperation agreement with the National Management Authority on irregularities, corruption and fraud in the Programmes.

Pursuant to the Regulation on the implementation of cross-border and transnational cooperation EU-funded programs (Annex to the Government Decision no.576/2017), the National Management Authority – Ministry of Finance, at the stage of implementing and monitoring of projects has the following tasks:

- Prevents, detects and corrects irregularities committed by beneficiaries / partners from the Republic of Moldova, notifying also the Managing Authority and the European Commission, and in case of detection of irregularities, fraud and corruption immediately informs the National Anti-Corruption and Anti-Fraud Authority (National Anti-corruption Centre);

- Immediately informs the National Anti-Corruption and Anti-Fraud Authority on possible cases of irregularities, fraud and / or corruption committed by beneficiaries / partners, other individuals and legal entities involved in project implementation;

- Informs the Managing Authority on the measures taken to prevent and remedy any irregularities or possible fraud or corruption at any stage of the use of funds allocated by the EU under the Programs.

The same Regulation provides for the following tasks of the Court of Accounts of Republic of Moldova (National Audit Authority), at the stage of implementing and monitoring of projects:

- Informs the National Management Authority on irregularities identified by for information and measures to correct them;

- Immediately informs the National Anti-Corruption and Anti-Fraud Authority (National Anti-corruption Centre) about certain possible cases of fraud and/or corruption, detected during the process of the audit of the program in Moldova or projects verification.

46. Financial and judicial follow-up: Have any procedures been defined for the communication of cases of suspected fraud to the prosecution authorities? Have any procedures been defined for the recovery of uncollected resources and unduly spent funds in the case of suspected fraud or other irregularities?

Communication of suspected fraud cases:

By Government Decision no.1365/2016[136], the National Anti-corruption Centre (NAC) was designated as the main contact point for the European Anti-Fraud Office (hereinafter OLAF), responsible for the cooperation and exchange of information with OLAF on cases of fraudulently obtaining, misuse, embezzlement of foreign assistance means provided by the European Union, corruption and other related acts, which could threaten the financial interests of the European Union.

Pursuant to the mentioned Government Decision, NAC had to revise/sign cooperation inter-departmental agreements *(with the national authorities)*, in order to extend and adjust the cooperation mechanism. Thus, there were signed:

Protocol amending and supplementing the Collaboration Agreement between the National Anti-corruption Centre and the Ministry of Internal Affairs, signed on February 10, 2016 (21.07.2017);

Cooperation Agreement between the National Anti-corruption Centre and the State Chancellery in the field of obtaining and using external assistance (30.08.2017);

Cooperation Agreement between the National Anti-corruption Centre and the Customs Service in the field of obtaining and using external assistance (29.09.2017);

Cooperation Agreement between the National Anti-corruption Centre and the Ministry of Justice and Additional Protocol no. 1 (regarding external assistance) - (23.10.2017);

Protocol supplementing the Cooperation Agreement between the National Anti-corruption Centre and the Court of Accounts, signed on April 17, 2013 (18.01.2018).

136 **https://www.legis.md/cautare/getResults?doc_id=96831&lang=ro**

Cooperation Agreement between NAC and the General Prosecutor's Office (27.11.2018)

Protocol supplementing the Cooperation Agreement between the National Anti-corruption Centre and the Ministry of Finance (10.04.2020)

Cooperation Agreement between NAC and the National Intergity Authority (25.07.2018).

The mentioned Agreements provide that, the national authorities shall immediately inform the National Anti-corruption Centre, in case of a suspicion or upon receiving information from persons involved at any stage of the programs / projects financed by European Union, regarding the cases of fraudulent obtaining, misuse, embezzlement, corruption and other related acts.

According to the Regulation on the implementation of cross-border and transnational cooperation EU-funded programs *(Annex to the Government Decision no.576/2017[137])*, the national authorities, responsible fo applying anti-fraud measures *(Ministry of Finance, Court of Accounts)*, at the stage of implementating and monitoring of projects, i*mmediately inform the National Anti-Corruption and Anti-Fraud Authority (National Anti-corruption Centre) on possible cases of irregularities, fraud and / or corruption committed by beneficiaries / partners, other individuals and legal entities involved in project implementation.*

Recovery of funds:

The same Regulation, provides that the National Management Authority (Ministry of Finanace) has the following tasks, at the stage of recovery:

Work with beneficiaries / partners to remedy the irregularity on the basis of the notification received from the Managing Authority and in case of discovering a fraud or corruption act, informs immediately the National Anti-Corruption and Anti-Fraud Authority (NAC);

Provide the necessary assistance to OLAF and National Anti-Corruption and Anti-Fraud Authority in the process of recovering EU funds obtained / used with irregularities, through fraud or corruption;

Support the Managing Authority in the recovery of EU funds allocated within the programs, used contrary to their purpose or unjustified.

National Anti–Corruption and Anti-Fraud Authority – represented by the National Anti-Corruption Centre (NAC), at the stage of recovering the EU funds obtained and/or used with irregularities, fraud or corruption:

carries out criminal proceedings in order to identify, seize and confiscate (in criminal or, where appropriate, civil proceedings) of the EU funds, allocated under the

137 **https://www.legis.md/cautare/getResults?doc_id=121873&lang=ro**

programs, misused, obtained / used by fraud, corruption and other irregularities, committed in the Republic of Moldova;

cooperates with OLAF in order to identify, seize and confiscate (in criminal or, where appropriate, civil proceedings) of EU funds, allocated under the programs, misused, obtained / used by fraud, corruption and other irregularities, committed in the Republic of Moldova;

assists OLAF in performing its own controls, according to the rules of civil and criminal procedure, the provisions of other special laws applicable in the Republic of Moldova, to conduct its investigations on alleged cases of fraud, corruption and/or irregularities admitted under the programs.

By Law no. 48/2017[138], the Criminal Assets Recovery Agency (CARA) was created, which is an autonomous subdivision within the National Anti-corruption Centre and which has the following tasks:

to carry out parallel financial investigations and to draw up the protocol on the results of these investigations, as well as making the criminal assets temporarily unavailable, according to the Criminal Procedure Code;

to valuate, manage and capitalize the criminal assets made temporarily unavailable;

to keep the records regarding the criminal assets made temporarily unavailable, including based on the requests coming from competent authorities from abroad;

to negotiate the repatriation of criminal assets;

to carry out international cooperation and exchange of information with foreign competent authorities;

to collect and analyze statistical data relevant to the crimes indicated in the law;

to represent the interests of the state and of the public law legal entities in civil lawsuits of recovering criminal assets, as well as of repairing the damages inflicted through the violation of the legislation of the Republic of Moldova and of other states;

to cooperate with public authorities exercising duties relevant to the activity carried out by CARA;

support, under the conditions of the law, the judicial bodies for the use of best practices in tracing and managing assets which can make the object of being temporarily made unavailable and confiscation in the course of the criminal proceedings.

138 **https://www.legis.md/cautare/getResults?doc_id=105677&lang=ro**

47. Has the country prepared and adopted in an inclusive process a national anti-fraud strategy and a related action plan (possibly as part of a public financial management reform programme)? If yes, does it also cover the protection of the EU's financial interests?

There is no specific strategy for combating fraud and an action plan implementing it, but the irregularity management mechanisms are covered in the following strategic documents: Public finance management development strategy 2013-2020, PIFC Development Program, National integrity and anti - corruption strategy for 2017–2023[139], with their respective action plans.

139 The Parliament Decision No. 56/2017 on approving the National integrity and anti - corruption strategy for 2017–2023, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129679&lang=ro#

IV. PROTECTION OF THE EURO AGAINST COUNTERFEITING (NON-CRIMINAL ASPECTS)

48. Does the legislation define counterfeiting, competent national authorities and procedures for gathering, storing, withdrawing from circulation and reimbursing or replacing any (suspected) counterfeit money. Which definition of counterfeiting of both for notes and coins is provided by the legislation?

Definitions*:*

Banknotes/coins suspected of being counterfeit - banknotes/coins that have the appearance of genuine banknotes/coins, fraudulently produced and/or altered, regardless of the means used, for the purpose of circulation (para. 2 of Regulation on cash operations in the banks of the Republic of Moldova, approved by the Decision of the Executive Board of the National Bank of Moldova No. 78/2018140).

Producing or distributing counterfeit currency, or knowingly attempting to use such currency, is a criminal offense under Art. 236 of the Criminal Code No. 985/2002141.

Competent bodies and procedure:

Banknotes and coins suspected of counterfeiting are transmitted by the Police in accordance with Law No. 68/2016 on the forensic expertise and the status of the forensic expert142 – as criminal evidence, for the analysis by the Technical-Forensic Center and Judicial Expertise (special Police division).

During cash operations, all commercial banks and the National Bank of Moldova have the obligation to withdraw from circulation banknotes and coins, which are considered suspected of being counterfeit as a result of the authentication procedure and to send them to the specialized subdivision of the Ministry of Internal Affairs for analysis and expertise (Chapter VII of Regulation on cash operations in the banks of the Republic of Moldova, approved by the Decision of the Executive Board of the National Bank of Moldova No. 78/2018).

The National Bank of Moldova is also involved in the process of monitoring counterfeit banknotes and coins (national currency) identified in the territory of the Republic of Moldova. Information regarding MDL banknotes/coins suspected of being counterfeit, detected in the banking system, is registered in the Counterfeit Evidence System, that is managed by the National Bank of Moldova.

140Regulation on cash operations in the banks of the Republic of Moldova, approved by the Decision of the Executive Board of the National Bank of Moldova No. 78/2018, available in Romanian at: https://www.bnm.md/ro/content/regulamentul-cu-privire-la-operatiunile-cu-numerar-bancile-din-republica-moldova-aprobat

141 Criminal Code No. 985/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro#

142 Law No. 68/2016 on the forensic expertise and the status of the forensic expert, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129048&lang=ro#

Banknotes/coins found to be counterfeit are not returned/refunded to the person who presented them.

According to Art. 270 paragraf (1) point c) of the Criminal Procedure Code No. 122/2003143, the criminal prosecution in case of such crimes is the responsibility of the prosecutor.

49. Does the legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of Regulations 1338/2001) to ensure that euro notes and coins, which they have received and which they intend to put back into circulation, are checked for authenticity and that counterfeits are detected?

When processing cash, the National Bank of Moldova, commercial banks and foreign exchange units, are required, by the profile regulatory framework, to check the authenticity and quality of banknotes and coins (both foreign and national currency), and to classify them as appropriate or unsuitable for circulation. The verification of authenticity must be done either by a special processing equipment or manually by qualified personnel.

Within performing foreign exchange operations in cash with individuals the foreign exchange entity ensures the verification of the authenticity of banknotes in foreign currency or in national currency and of the traveller's cheques in foreign currency received from the individual, acting in accordance with the in force legislation in case of identifying the values that are suspected of being false (item 41 of the Decision of the Executive Board of the NBM No. 335/2016 on approving the Regulation on the Activity of Foreign Exchange Entities144).

50. Does the legislation provide for the obligation of credit institutions and other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins (as specifically indicated in article 6 of the Regulation 1338/2001) to withdraw from circulation all banknotes and coins which they know or have sufficient reason to believe to be counterfeit and to hand them over to the competent authorities? Have any sanctions been defined in the case this obligation is not complied with?

The National Bank of Moldova, commercial banks and foreign exchange units have the obligation to withdraw from circulation banknotes and coins (both national and foreign currency), which are considered suspected of being counterfeit as a result of

143Criminal Procedure Code No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

144 Regulation on the Activity of Foreign Exchange Entities, approved by the Decision No.335/2016 of the Executive Board of the National Bank of Moldova, available in English at: https://www.bnm.md/en/content/regulation-activity-foreign-exchange-entities-approved-approved-eb-decision-no335-december-1

the authentication procedure and to send them for expertise to the specialized subdivision of the Ministry of Internal Affairs.

If these obligations are not complied with (intentionally/erroneously neglected), one or few of the following sanctions can be applied:

administrative sanctions, sanctioning measures, supervision, and other remediation measures (mentioned in Chapter V of the Law No. 202/2017 on the activity of banks145, Art. 75 of the Law No. 548/1995 on the National Bank of Moldova146, Art. 63 of the Law No. 62/2008 on foreign exchange regulation etc.), that can be applied by the National Bank of Moldova to the commercial bank/foreign exchange unit or/and its management.

The cash transmitted by the commercial bank to the National Bank of Moldova is subject to full verification. In case of cash suspected of being counterfeit, the bank must cover the cash differences (suspected to be false).

administrative sanctions, mentioned for example in articles 291, 293 of the Contravention Code No. 218/2008147, that can be applied by legal courts at the request of the Police Inspectorate / State Tax Service / Ministry of Finance;

criminal penalties, mentioned in Chapter X of the Criminal Code No. 985/2002148, and are applied by the legal courts based on a case initiated by the criminal investigation body;

disciplinary sanctions mentioned by Art. 206 of the Labour Code No. 154/2003149, applied by the employer to the guilty employee (reprimand, withholding that cash amount from the salary, dismissal etc.);

civil penalties mentioned by the Civil Code No. 1107/2002150 applied by the legal court (for example: repair of moral/material damage caused by these actions).

51. Does the legislation regulate medals and tokens similar to euro coins?

The national banking regulatory framework (also other cash processing rules/regulations) does not regulate the status of medals and tokens (from the

145 Law No. 202/2017 on the activity of banks, available in English at: http://www.bnm.md/en/content/law-banks-activity-no-202-06-october-2017
146 Law No. 548/1995 on the National Bank of Moldova, available in English at: http://www.bnm.md/en/content/law-national-bank-moldova-no548-xiii-july-21-1995
147 Contravention Code No. 218/2008, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130832&lang=ro#
148 Criminal Code No. 985/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro#
149 Labour Code No. 154/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130513&lang=ro#
150 Civil Code No. 1107/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro#

perspective of Council Regulation (EC) No 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins).

Art. 57 of the Law No. 548/1995 on the National Bank of Moldova mentions the exclusive right of the National Bank to issue on the territory of the Republic of Moldova banknotes and coins as legal tender, as well as commemorative and jubilee banknotes and coins as legal tender and for numismatic purposes. Such commemorative and jubilee coins have numismatic value and can be used as means of payment.

Commemorative and jubilee coins (coins made of precious/non-precious metals that are issued in limited circulation, with a specific design highlighting personalities, historical events etc. that have numismatic value and can be used as means of payment) also fall under the cash processing rules/regulations.

Art. 59 para. (3) of the Law on the National Bank of Moldova No. 549/1995151 states that: „*Any color reproduction of banknotes and coins, with the dimension from 2/3 to 4/3, partial or integral, for advertising purpose, for information or other commercial purposes is prohibited*".

52. Does the legislation define procedures for the domestic cooperation on counterfeiting and the cooperation with foreign banks and authorities?

The national legislation defines the roles and level of cooperation of the competent national authorities in the field of combating counterfeiting of national currency.

In 2015, between the National Bank of Moldova and the Ministry of Internal Affairs was signed a Cooperation Agreement on Preventing and Combating Counterfeiting and Protection of the National Currency.

Among the main responsibilities set out in this Agreement are:

for the National Bank of Moldova:

keeping the national record system of national currency counterfeits; quick identification and record of such currency;

withdrawal of suspected counterfeit national currency, informing the police about such currency to be picked up for analysis and expertise;

receiving the technical-scientific reports regarding the currency sent for analysis;

151 Law No. 548/1995 on the National Bank of Moldova, available in English at: http://www.bnm.md/en/content/law-national-bank-moldova-no548-xiii-july-21-1995

receiving quarterly, on paper, from the police, the data on currency counterfeits registered at national level in order to have a complete record of the existing situation and update status.

for the General Inspectorate of Police:

quick pick up and the transmission of such currency to the Technical-Forensic and Judicial Expertise Center of the Police Inspectorate, for examination / verification / expertise;

presenting the results of the expertise as soon as possible;

participation in training sessions for bank employees on measures to prevent, detect and combat counterfeiting.

53. Which authorities have been designated for the centralisation, technical analysis and processing of information on counterfeit bank notes and coins, both euro and other currencies? Please provide information on staff and technical capacity.

There is no such centralized national structure responsible for all the aspects of the analysis/expertise of suspected counterfeit cash to allow for rapid intervention and real monitoring of the degree of risk.

Each existent responsible body/entity is involved only in specific activities regarding the detection, withdraw, seizing, expertise, criminal procedure, punishment etc.

54. Have any procedures been defined for the transmission of examples of counterfeit banknotes and coins, both euro and other, and related information to the relevant authorities inside or outside Moldova?

The counterfeit banknotes and coins are seized by the police. If the judicial expertise confirms that the banknotes are counterfeited, then criminal prosecution starts.

55. Have any procedures been defined for the gathering and indexation of statistical data relating to counterfeit banknotes and coins (both for the Euro and other currencies)?

The National Bank of Moldova is involved in the process of monitoring counterfeit MDL banknotes and coins identified in the territory of the Republic of Moldova.

Information regarding MDL banknotes/coins suspected of being counterfeit, detected in the banking system, are registered in the Counterfeit Evidence System, that is managed by the National Bank of Moldova.

56. Which sanctions apply for the entering into circulation and for the use of medals and token similar to euro coins?

Speaking about commemorative and jubilee coins – national currency (mentioned already in the answer to Question 51 of the present questionnaire), the same kind of sanctions are applicable like in case of legal violations regarding ordinary banknotes/coins.

The manufacture for the purpose of putting into circulation or putting into circulation the jubilee coins is sanctioned, according to art. 236 Criminal Code, with imprisonment from 5 to 10 years, and the legal person is punished with a fine and deprivation of the right to exercise a certain activity

57. What are the procedures and bodies established for the fight against counterfeiting?

Commercial banks and the National Bank of Moldova have the obligation to withdraw from circulation banknotes and coins, which are considered suspected of being counterfeit as a result of the authentication procedure and to send them for expertise to the specialized subdivision of the Ministry of Internal Affairs.

Police have the obligation to seize cash suspected of counterfeiting from the place of their detection, and transmit it as criminal evidence for the performance of the corresponding expertise by the Technical-Forensic Centre and Judicial Expertise;

The National Bank of Moldova is also involved in the process of monitoring counterfeit banknotes and coins (national currency) identified in the territory of the Republic of Moldova. Information regarding MDL banknotes/coins suspected of being counterfeit, detected in the banking system, are registered in the Counterfeit Evidence System, that is managed by the National Bank of Moldova.

The criminal prosecution in case of such crimes is the responsibility of the prosecutor under Article 270 Code of Criminal Procedure

58. Has the country ratified the 1929 Geneva Convention for the suppression of counterfeiting currency?

The Republic of Moldova has not yet ratified or implemented the 1929 International Convention for the Suppression of Counterfeiting Currency (signed at Geneva on 20 April 1929)[152].

152 International Convention for the Suppression of Counterfeiting Currency, available in English at: https://treaties.un.org/pages/LONViewDetails.aspx?src=LON&id=559&chapter=30&clang=_en

59. Does Moldova participate in the Pericles programme? Does the country take part in international cooperation, including cooperation with other countries in the region and/or the Member States?

Although Republic of Moldova is not an EU member state with competent national authorities referred to in Article 2(b) of Council Regulation (EC) No. 1338/2001, Moldovan national responsible bodies (Police Inspectorate, Ministry of Internal Affairs and National Bank of Moldova etc.) are often invited to participate, as third parties, to meetings / conferences / seminars / training organized through the Pericles Programme where each country (even non EU member) can share their experience and good practice, important cases, methodology etc. in order to form and improve a common front of cooperation for the protection of the euro currency in Europe.

THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA

D E C I S I O N no.124

as of 2nd of February 2018
Chisinau

on the approval of the Public Internal Financial Control Development Program for 2018 – 2020 and the Action Plan for its implementation

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In order to implement the provisions of Article 29 of the Law no. 229 as of 23 September 2010 on Public Internal Financial Control (Official Gazette of the Republic of Moldova, 2010, no. 231-234, art.730), the Government DECIDES:

1. It is approved:

1) Public Internal Financial Control Development Program for the years 2018-2020, according to the Annex no. 1;

2) The Action Plan for the implementation of Public Internal Financial Control Development Program for the years 2018-2020, according to the Annex no. 2.

2. The Ministry of Finance is the main authority responsible for coordinating the implementation of Public Internal Financial Control Development Program for 2018-2020.

3. The authorities concerned shall take the necessary measures to implement the Action Plan for the implementation of Public Internal Financial Control Development Program for the years 2018-2020 and submit annually, by 1st of March, to the Ministry of Finance, reports on the implementation of the actions

4. The Ministry of Finance shall annually present to the Government, by 1st of June, the consolidated Annual Report on Public Internal Financial Control, and shall, if necessary, submit proposals for amending and supplementing the Action Plan on the Development of Public Internal Financial Control for the years 2018-2020.

5. To repeal Government Decision No. 1041 as of December 20, 2013 "On the approval of the Program for the development of public internal financial control for the years 2014-2017" (Official Gazette of the Republic of Moldova, 2013, no. 304-310, art.1147).

Prime Minister **PAVEL FILIP**

Countersign:

Minister of Finance Octavian Armasu

Annex no.1
by Government Decision no.124
as of 2nd of February 2018

PIFC DEVELOPMENT PROGRAM for 2018-2020

I. PROBLEM IDENTIFICATION

1. The Government of the Republic of Moldova has undertaken to strengthen public finance management based on the principles of good governance.

2. The principles of good governance consist of transparency and accountability, economy, efficiency and effectiveness, legality and equity, ethics and integrity in the work of the public entity, aligned with the main principles of the Public Administration Reform.

3. The concept of Public Internal Financial Control (hereinafter PIFC), including the financial management and control system implies a radical change in the culture of governance and management of public funds. By developing PIFC, the Government aims to streamline public administration, reduce bureaucracy, minimize the risks of corruption, and provide quality services for citizens and businesses.

4. Managers at all levels of public entities shall be responsible and be held accountable for their activities performed not only in the field of operational policies and processes, but also in financial management and control.

5. The PIFC concept aims to increase managerial accountability and focuses on 3 pillars:

1) financial management and control, implemented by the persons responsible for governance, administration and other personnel in accordance with the regulatory framework and internal regulations, in order to provide reasonable assurance that the public funds are used by the public entity legally, ethically, transparently, economically, efficiently and effectively;

2) internal audit - independent and objective activity that provides managers with assurance and advice, evaluating through a systematic and methodical approach the financial management and control system and providing recommendations for enhancing its effectiveness;

3) Central Harmonization Unit, subdivision of the Ministry of Finance (hereinafter MoF) responsible for the elaboration and monitoring of PIFC policy.

6. The previous PIFC development program was ambitious and did not fully achieve the overall goal of strengthening managerial accountability for optimal resource management. The analyzes show that there is room for improvement in managerial culture at all levels of public administration.

7. PIFC development is a key to success of the reform of public administration, which has the goal to:

1) make managers and employees accountable;
2) draft appropriate public policies;
3) modernize public services;
4) effective management of public finances;
5) advanced management of human resources.

8. In the context of Public Financial Management Reform, the PIFC system, as its instrument, must increase citizens' confidence in the state, facilitate the management of resources to achieve objectives, provide the stakeholders with truthful information about the capacity to manage the budget, and finally report to the Parliament on the general performance of the public sector.

9. The concept of managerial accountability, including financial management and control, is not yet fully functional. There are obstacles that impede the effective implementation and further development of the public internal financial control system, namely:

1) the low interest of top managers in practice - they are either not interested at all or show limited interest in the implementation of the public internal financial control system;

2) isolated reform - lack of coordination, cooperation and communication between ongoing reforms. Currently, the Ministry of Finance is considered the only authority responsible for the implementation of the public internal financial control system;

3) limited understanding of the top management as well as among employees about what is financial management and control and internal audit - implementation of financial management and control is understood as a technical reform rather than a management reform, and internal audit is not perceived as an integral part of an extensive internal control system;

4) the limited supply of public finance specialists - for entities implementing financial reforms it is difficult to find and maintain specialists such as internal auditors, accountants and economists;

5) the partially implemented legal and organizational framework - the formal structural delegation of competences and responsibilities, with an unclear segregation between operational, financial-budgetary and support processes;

6) many small internal audit subdivisions are dispersed in the public sector and some internal auditors have limited professional experience in public finance and audit field;

7) too many reforms in parallel - all reforms require management's attention and effort and hard work to implement the public internal financial control system. As a result, managers give higher priority to other reforms than to the reform of public internal financial control.

10. The PIFC reform is dependent and directly influenced by decisions and developments in the implementation of the Public Administration Reform and the Public Finance Management Reform.

11. Having regard that the core legislative and regulatory framework has been developed, it is necessary to focus on identifying and /or creating good implementation practices and further disseminating them across the public sector.

12. Thus, at the initial stage, the Public Internal Financial Control Development Program for the years 2018-2020 (hereinafter - the Program) is intended for ministries and other central administrative authorities, the National Health Insurance Company, the National House of Social Insurance, in collaboration with the City Hall of Chisinau, the City Hall of Balti, and the City Hall of Cahul. Subsequently, in the second stage the lessons learned and the good practices identified will be disseminated to all public entities.

13. This Program contains a brief description of the current state of PIFC, as well as the development direction for 2018-2020.

14. The Program will be implemented in partnership with the specialists in public finance management, internal audit as well as organizations concerned. A Twinning Project to strengthen managerial control and public internal audit financed by the European Union as well as the Ministry of Finance of the Netherlands will provide support in implementation of this Program.

II. CURRENT SITUATION

15. There are many misunderstandings about the PIFC concept and, in particular, the FMC component. They come from two sources and are found in the traditional approach of the Moldovan public administration.

16. The first misunderstanding arises because FMC is regarded as simply a financial reform of interest only to the Ministry of Finance (hereinafter MoF).

17. The second misunderstanding relates to the nature of the internal control system, as the accountants and managers understand it. Internal control is generally regarded to be only financial and budgetary control of compliance with laws and regulations. As a consequence, it is attributed to the Finance Service. FMC is not seen to be an integral part of successful management or direct responsibility of the manager.

18. The MoF is responsible for the design and development of PIFC policy.

This, together with the general name of "public internal financial control" policy, prompts politicians, managers and employees to regard the FMC policy as being merely financial and budgetary control, with a narrower or even limited scope.

Achievement in the field

19. Actions have been taken over the recent years to put in place conditions for PIFC system implementation, namely:

1) the regulation framework has been established by the approval of the Law on Public Finance and budget-fiscal responsibility no. 181 as of 25th of July 2014, Law no. 229 as of 23 September 2010 on public internal financial control, the Financial Services Framework Regulation, the National Internal Audit Standards and National Internal Control Standards, the methodology and guidelines for their application. Also, self-assessment and reporting systems for both internal audit and FMC have been established;

2) 92 internal audit sub-divisions (IAS) were created in the public sector with 116 internal auditors that are working, 46 of whom have qualification certificates;

3) core responsibilities of financial services have been established, FMC specific responsibilities have been integrated into the internal regulations for the organization and operation of subdivisions in most central public authorities (hereinafter CPAs), and in some local public authorities (LPAs) of second level;

4) a first continuous professional development program for internal auditors, training modules and materials for both managers and internal auditors have been developed, as well as training and awareness-raising seminars organized. Also, the basis for a national certification system for internal auditors has been created.

III. OVERALL PROGRAM OBJECTIVES

20. The top management is responsible for delivering public services efficiently and effectively. To achieve this, managers have to recognize the interdependence between financial resources and what they want to achieve (objectives), what efficiency and effectiveness means, and how to achieve this.

21. Moreover, the top manager must organize the work rationally so that to ensure that all the components of internal control are in place and implemented.

22. In addition, responsibilities should be delegated and a clear accountability structure should be introduced in the public entities. This accountability should cover both the use of entrusted resources and the achievement of objectives.

23. Thus, accountability should cover more than financial and budgetary control. Accountability must also relate to how internal control has been applied, what has gone wrong, and changes made by management to redress the situation.

24. Accountability is also important externally: in relation to the administrative and political hierarchy as well as in relation to the citizens. Implementing a well-balanced and sufficient mechanism for this purpose is of major importance.

25. The overall objectives of PIFC Development Program are as follows:

1) integrating FMC into operational, financial, economic and support processes - from the planning of the activity and the resources to the execution of the budget and operational plans, till their monitoring and reporting;

2) incorporating risk management in processes and decisions – a common approach is in place both for compliance control and for efficiency and effectiveness of operations;

3) ensuring a link of operational plans and objectives to the resources needed to achieve them – plans have a financial dimension and financial-accounting systems provide qualitative information to make decisions and monitor their implementation;

4) assessing the effectiveness of FMC systems - internal auditors demonstrate their usefulness as a tool for timely identification of difficulties and weaknesses, as well as providing appropriate recommendations for improving systems and operations;

5) the protection of state's financial interest - a clearer segregation between managers' control responsibilities, internal audit and financial investigation responsibilities. In this respect, the Financial Inspection will have another role. Financial inspection responsibilities currently performed at the request of law enforcement agencies will be transferred to law enforcement bodies and their results will become more effective. The obligation to carry out inspections based on requests from others than the Government will cease. The remaining responsibilities will be restructured into a financial inspection of compliance of the budget execution at the request of the Minister of Finance. Additionally, an audit function will be established at Government level, which will provide assurance on the functionality of the main areas and systems of Public Finance Management following the responsibility lines of the Ministry of Finance. The clearer segregation of the tasks together with staff professionalization will create a stable basis for:

a) ensuring the robustness of PFM systems;
b) preventing and detecting errors and irregularities;
c) recovering misused money and assets.

26. In this context, the Program should contribute to the achievement of the overall objectives mentioned before. This will also be done in cooperation with other reforms and actors involved:

1) by creating new platforms correlated with the deficiencies and obstacles revealed in the Program that would establish better conditions for a more effective implementation of the PIFC system;

2) analyzing deficiencies and obstacles and identifying potential solutions to

overcome them.

27. Stakeholders will strive for a much more participatory approach under the Program, mobilizing all relevant actors and ensuring the co-ordination, co-operation, and communication between key-players involved in many on-going reforms. The MoF will also initiate cooperation relations with international professional bodies.

28. During the Program's reference period both the Government and each public entity will make the following changes:

1) initiating the professionalization of key financial management functions;

2) focusing on results, not just on resources, with real emphasis on efficiency and effectiveness;

3) focusing the political level on strategies and policies, including setting goals and performance standards;

4) increasing managerial accountability;

5) strengthening discipline in managerial processes.

29. The actions under the Program will be directed to overcome the hurdles identified in the current system, as well as creating preconditions for strengthening managerial accountability according to the following specific objectives:

1) coordination of development of PIFC system and ensuring consistency with general policies and programs;

2) development of current FMC systems;

3) strengthening the function of internal audit;

4) strengthening the professions in public financial management;

5) clarification of the role of Financial Inspection.

30. PIFC strengthening will take place by:

1) creating conditions, platforms and good practices for implementing and /or developing PIFC within ministries and some central public authorities, the NHIC, the NSIH in collaboration with the CH of Chisinau, the CH of Bălţi and the CH of Cahul;

2) disseminating lessons learned and good national practices in the entire public sector, including the autonomous entities, the public entities under the CPA, as well as the LPA bodies.

31. The PIFC Council will monitor and analyze the activities of the Program, review obstacles and shortcomings in implementation, identify related risks, submit proposals for their resolution, and report the progress made to the Minister of Finance.

Annex 2 to the

Government Decision no. 124 of 2nd February 2018

ACTION PLAN
for the implementation of Public Internal Financial Control Program
for the years in 2018-2020

No. d/o	Action	Timeframe	Result Indicators	In charge of implementation
1	2	3	4	5
Objective I. Coordination of PIFC system development and ensuring consistency with general policies and programs				
1	Review the role, powers and composition of Public Internal Financial Control Council	2018	Regulation of PIFC Council reviewed and approved Order of designation the composition of the PIFC Council approved	Ministry of Finance Public Internal Financial Control Council;
2	Strengthen the impact and visibility of PIFC Council	Yearly	One conferences in the field of FMC /Internal Audit organized and carried out	Ministry of Finance Public Internal Financial Control Council;
		Permanent	Results of activity of PIFC Council published on the MF website	
3	Updating the Law on Public Internal Financial Control according to the new trends and remove the gaps identified in the current governance system	2018	Amendments and additions to the Law no. 229 of 23 September 2010 on PIFC approved	Ministry of Finance Public Internal Financial Control Council;
4	Strengthen the platform for cooperation and communication with the Court of Accounts (CoA), State Chancellery and other public authorities, development partners and other ongoing projects	Permanent	Communication mechanism developed; one training seminars conducted jointly with the Court of Accounts (CoA)	Ministry of Finance PIFC Council
5	Identify and introduce a mechanism to disseminate best practices and exchange experience to facilitate the organization and development of financial management and control and internal audit function	Permanent	Meetings, sessions, workshops, organized once a semester and conducted with managers of public entities and internal auditors Inter-ministry sessions of General State Secretaries organized and conducted annually	Ministry of Finance PIFC Council
6	Monitoring PIFC system	Yearly	Report developed	Ministry of Finance PIFC Council
Objective II. Development of current FMC systems				
7	Organize and implement pilot assessments of current FMC systems within the public entities	2019	FMC system assessed in 14 public entities	Ministry of Finance
			14 reports on the functionality of their own FMC systems prepared	Ministries NHIC

			14 plans for strengthening FMC developed	NHSI in collaboration with City Hall Chisinau municipality City Hall Balti municipality City Hall Cahul municipality
8	Capacity building of CPA General State Secretaries, State Secretaries and managers (as well as level II LPAs) on Financial Management and Control	Yearly	3 FMC training seminars organized and held annually	Ministry of Finance
9	Review of core operational processes	Yearly	1 training seminar on process documentation organized and held	Ministry of Finance
		2020	100% core processes identified, mapped and/or revised	Ministries NHIC NHSI in collaboration with CH Chisinau CH Balti CH Cahul
10	Develop a risk-based performance planning model	Yearly	1 training seminar on risk management organized and held	Ministry of Finance
		2020	Functional planning mechanism	Ministries NHIC NHSI in collaboration with CH Chisinau CH Balti CH Cahul
11	Enhance the role of Finance Service in the development of current FMC systems	Yearly	One training seminar / workshop organized and run annually with the Finance Services	Ministry of Finance
		2018	Network of practitioners in Financial Services created	
		2020	100% basic processes related to the Financial Service documented and revised	Ministries NHIC NHSI in collaboration with CH Chisinau CH Balti CH Cahul
12	Create conditions for public entities to outsource or "share" economy and finance services for public entities	2018	A pilot exercise on *outsourcing* economy and finance services launched; A pilot exercise on *shared* services for economy and finance launched.	Ministry of Finance
		2019	Legal framework revised and approved Personnel in the public sector to provide *outsourced* economy and finance services identified and trained	

13	Review the system of self-assessment, reporting on the FMC system and issuing the declaration on good governance	2018	System revised; One information seminar organized and conducted	Ministry of Finance
		2019	System for monitoring and control of issuing the declaration on good governance, developed	Ministry of Finance PIFC Council
14	Strengthen financial management and control procedures	2019	Framework-regulation on the activity of finance services revised and approved	Ministry of Finance
		2020	FMC manual revised and published on MoF website	
15	Self-assessment, reporting on the financial management and control system, and issuing the declaration on good governance	Yearly	100% entities concerned have prepared the Report on the organization and functionality of the FMC system 100% entities concerned have issued and published the Declaration on good governance	Public entities
16	Report on the Internal Audit Activity and functionality of the FMC	Yearly	100% of the IAS prepared and submitted the Report on activity and including functionality of FMC	IAS
Objective III. Strengthening the function of internal audit				
17	Strengthening the IA function within ministries and clarify their scope.	2018	The legal and normative framework on the organization and functioning of internal audit revised and approved	Ministry of Finance
			100% of ministries has an IAS staffed	Ministries
		2019	100% IAS heads trained	
		Permanent	100% of counseling requests conducted	Ministry of Finance
18	Create conditions for public entities to *outsource* or *share* internal audit services for public entities	2018	Legal and regulatory framework for audit work revised and approved Regulation on outsourcing and "sharing" internal audit services drafted and approved	Ministry of Finance
		Ongoing	50% personnel trained	
19	Strengthen the internal audit function of the public sector	2018	Minimum requirements on the competence of internal auditors reviewed	Ministry of Finance PIFC Council
		2020	Heads of IAS trained and certified	Public entities
		Yearly	One seminar of awareness-raising for managers about the roles and responsibilities of internal auditors organized and held yearly	Ministry of Finance
20	Strengthen internal audit procedures	2018	National internal audit standards reviewed and approved	Ministry of Finance

		2019	Internal audit methodology reviewed and approved	
21	Create and implement a system for assessment of IAS from public sector	2019	Regulation on the external assessment of the internal audit activity drafted and approved	Ministry of Finance
		2020	5 IAS assessed 5 Reports on Internal Audit Assessment drafted for IAS, assessed	
22	Draft and implement programs for assurance and improvement of internal audit quality	2019	Program, developed /revised and approved	Public entities IAS
		2020	100% internal assessments of internal audit activities made	
Objective IV. Strengthening the professions in public financial management				
23	Identify and implement a system of training and continuous professional development of internal auditors	2018	Continuous professional development program of internal auditors reviewed and implemented Training materials and curriculum developed 10 trainers identified and trained 20 internal auditors trained	Ministry of Finance
24	Refine the current system of Professional Certification for Internal Auditors	2018	Regulation on certification of internal auditors from public sector reviewed and approved	Ministry of Finance
		2020	20 internal auditors certified under the new provisions /requirements	
25	Create and implement a solid training and continuous professional development system for specialists in Economy and Finance	2018	Continuous professional development program for specialists in Economy and Finance drafted and implemented Educational materials and curriculum developed 10 trainers identified and trained 30 specialists in Economy and Finance trained	Ministry of Finance
26	Draft and implement a Professional Certification Program for Finance and Economy specialists	2018	Regulation on Professional Certification of Finance and Economy specialists drafted and approved	Ministry of Finance
		2020	30 certified finance and economy specialists	
27	Create and implement a robust system of training and continuous professional development of public procurement specialists	2018	Continuous professional development program of public procurement specialists drafted and implemented Educational materials and curriculum developed 10 trainers identified and trained 20 trained public procurement specialists	Ministry of Finance Public Procurement Agency

28	Draft and implement a Professional Certification Program for Public Procurement Specialists	2018	Regulation on Professional Certification of Public Procurement Specialists drafted and approved	Ministry of Finance Public Procurement Agency
		2020	20 Certified Public Procurement Specialists	
29	Strengthen the relationship with the academic environment in order to include /develop training modules and programs for specialists involved in public financial management	Permanent	One working meeting with representatives of the academic environment organized and held annually; Academic environment involved in continuous professional development programs of specialists in public finance management	Ministry of Finance Higher education institutions and specialized training institutions for continuous training
30	Create a system for financial and non-financial motivation of specialists in the field of public financial management, including internal auditors	2018	System of motivation created	Ministry of Finance
Objective V. Clarification the role of Financial Inspection				
31	Clarify the roles and duties of Financial Inspection according to the recommendations of development partners and good practice	2018	Regulatory framework revised and approved Regulation on organization and operation revised and approved	Ministry of Finance
32	Capacity building for sectoral audits of national interest	2018	100% audit staff trained	Ministry of Finance
		2019	Strategic plan drafted and approved	Ministry of Finance
33	Enhance financial investigation capacity when transferring responsibilities to the judiciary body	2018	Training Needs Assessment Report developed Training of 100% of the financial investigators transferred and trained	Ministry of Finance Ministry of Justice