

EU-Moldova Civil
Society Platform



Platforma societății
civile UE-Moldova

2nd meeting, Chisinau, 22 May 2017

JOINT DECLARATION

The EU-Moldova Civil Society Platform (CSP) is one of the bodies set up within the framework of the Association Agreement between the European Union and the Republic of Moldova (hereinafter - Association Agreement). It enables civil society organizations from both sides to monitor the implementation process and prepare its recommendations to the relevant authorities.

The 2nd meeting of the CSP was held on 22 May 2017 in Chisinau alongside the EU-Moldova Parliamentary Association Committee. The members of the CSP discussed the state of play in the implementation of the Association Agreement, held a debate and adopted reports on the impact of DCFTA implementation on economic development of the Republic of Moldova.

With regard to the **implementation of the** Association Agreement, the CSP members:

1. Take note of the implementation reports issued by Moldovan Government¹ and the European Commission², as well as of the alternative independent evaluations³ on the implementation of the Association Agreement.
2. Note the **Joint statement following the third Association Council meeting between the European Union and the Republic of Moldova**⁴ that underlined the importance of Moldova in maintaining its commitments under the Association Agreement/DCFTA, and proceeding with their implementation in a faithful and practical manner and further advance reform

¹ http://www.mfa.gov.md/img/docs/Raport-privind-implementarea-AA-2014_2016.pdf.

² https://eeas.europa.eu/sites/eeas/files/association_implementation_report_on_the_republic_of_moldova_2017_03_10_final.pdf.

³ <http://ipre.md/2017/03/24/5175/?lang=en>

⁴ <http://www.consilium.europa.eu/en/press/press-releases/2017/03/31-statement-eu-moldova/>

processes in line with the recommendations of international partners and in consultation with the civil society;

3. Welcome the **continuous support offered by the EU** in the implementation of the AA/DCFTA and related areas on internal reforms aiming at increasing resilience of the Republic of Moldova from internal and external challenges. From this perspective, it is crucial that the EU continues to apply targeted conditionality linked with the reform progress in the area of rule of law and the respect of basic principles of democracy while granting the financial assistance to the Republic of Moldova.
4. Note that even though Moldovan authorities advanced **with important legislative actions** in a number of areas provided by the Association Agreement since the first CSP meeting, still a series of reforms adopted were implemented either with delays or partially, and thus limited progress was achieved in delivering tangible results in key reform areas, such as: ensuring independent and accountable judiciary; fighting systemic cross-party corruption at all levels; addressing the politicization of state institutions; ensuring transparency, accountability, resilience and good governance, including in the management of public finances; improving the competitiveness of Moldovan goods and in promoting active labor policies for productive and decent work for all, as well as outstanding issues related to the electoral system reform;
5. Underline that any legislative initiatives to reform the electoral system in the Republic of Moldova should be in line with core principles of democracy and rule of law, including the **Venice Commission Recommendations** and Code of good practices on electoral matters.
6. Call on the Parliament of the Republic of Moldova to dully amend the electoral legislation according to the **Constitutional Court Judgement No. 34 of 13 December 2016**⁵ that pointed out certain shortcomings of the election and issued, for the first time, 6 references for amending the electoral legislation to the Parliament relating to: (i) examination of complaints about the **organization and conduct of elections**; (ii) **system for voting abroad** and the inclusion of additional criteria for establishing the number and geographic distribution of ballots abroad, including by providing polling stations abroad with a reserve quantity of ballots; (iii) **criminalization of vote buying** during presidential elections; (iv) enactment of a system that allows prompt and immediate punishment, including by criminal proceedings, of any attempts by **religious organizations to interfere in election** campaigns;

⁵<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=368347>

- (v) institution of effective tools allowing the relevant authorities to apply dissuasive and immediately enforceable sanctions (such as suspending broadcasting rights for the entire period of the election campaign) to those media outlets that violate their obligation to be **impartial during the electoral period**.
7. Call on Moldovan authorities to **ensure the implementation of an efficient parliamentary oversight** mechanism with the participation of the civil society, aiming to enforce the key laws and reforms adopted.
 8. Recommend to Moldovan authorities to review **the political parties financing legislation** to avoid the incomplete or unsatisfactory enforcement of the restrictions related to the sources of financing in particular by: (i) significant reduction of financing thresholds in the form of donations for political parties by both legal entities and natural persons; (ii) exclusion of financing of the political parties by legal entities or natural persons who benefited from the award of public procurement contracts; (iii) include the obligation of the party donors to provide the origin of funds, including the requirement that the donated funds should belong to the donor personally (no borrowed or otherwise obtained funds should be accepted from the donors); (iv) effective control of the political parties' assets, periodic auditing of the assets used by the political parties in the framework and outside of the electoral campaigns; (v) revision of the political parties' financing mechanism from the state budget, clarifying the status of electoral blocks and of independent candidates as beneficiaries of support funds for political activity from the state budget;
 9. Welcome the adoption of the **Public Administration Reform Strategy 2016-2020** and its implementation Action Plan. Call on upon Moldovan government to ensure a transparent process of the implementation of the new PAR Strategy. Thus, an integrated approach should be taken with respect to the central public administration reform, local public administration reform and the administrative-territorial reform, since all three reforms are focused on the optimization and increased efficiency of public authorities, quicker and more efficient interaction with the citizens and with the entrepreneurs, closer authorities to the citizens through the services they provide.
 10. Call on Moldovan authorities to ensure **de-politization and independence of regulatory and law enforcement bodies**, as a first step, by ensuring that the appointment to the leadership positions of the respective authorities is done via a transparent, independent and merit-based selection process;

11. Express concern with the attempts of Moldovan authorities to swiftly **adopt high impact legislation in clear breach of transparency rules and norms**. In particular, the CSP members note the attempts of Moldovan Parliament to promote a draft law on capital liberalization and fiscal amnesty, that later was abandoned due to public pressure of civil society organization and recommendations of development partners. Another example is the current legislative initiative to change the electoral system or the promotion of the pension reform among others.
12. Note that **recent legislative amendments to the Audiovisual Code** (that limits the number of media institutions per owner) will have little impact on reducing effective media concentration. CSP members stress the need for Moldovan authorities to: (i) ensure that legal provisions on personal data shall not be abused to limit the access to information relevant to the general public and undermine independent media investigations and (ii) engage with Mass-Media Forum participants in order to discuss effective ways to implement the Roadmap for mass-media development in the Republic of Moldova⁶. Call upon Moldovan authorities to draft in close cooperation with Moldovan civil society organizations and adopt a Mass-Media Development Strategy in Moldova for 2017-2020
13. Stress the need to have a functional **National Integrity Authority in the shortest time possible and without any unjustified delay**, by ensuring transparent, merit based selection of the NIA leadership and provision of all financial, material and logistic resources necessary to have a fully operational, independent and efficient NIA. The authorities shall respect the legal deadline and their commitments undertaken with the EU and by the end of 2017 to ensure that: (i) integrity inspectors are selected in a transparent and fair way, (ii) the E-integrity system for electronic submission and verification of assets and interest declarations is fully operational.
14. Express concern on **modest results achieved in fighting systemic corruption**. In 2016 Moldovan Parliament adopted important legislation aimed at combating corruption. However, this is not sufficient to ensure that the corruption is effectively prosecuted in

⁶ The Roadmap for mass-media development in Republic of Moldova was developed and adopted during the first edition of Mass-Media Forum in Republic of Moldova (27-28 October 2015), and complemented during the second edition (2-3 December 2016), with the participation of more than 240 experts, opinion leaders, managers, publishers, journalists from various mass-media institutions in the country. The document was sent to competent state authorities/institutions following the second edition of Mass-Media Forum on 2-3 December 2016, with the recommendation to examine it and implement the required actions. <http://mediaforum.md/upload/roadmap-for-media-development-in-rm-engpdf-58aaf12fa9a84.pdf>.

Moldova. It is recommended that the Republic of Moldova is to increase the funding for Anticorruption Prosecution service and intensify its efforts for eradication of high-level corruption within the law enforcement and judiciary authorities. Ensure a transparent, merit-based and objective selection process of the SCP (Supreme Council of Prosecution) members representing the civil society. Consolidate the functions of the prosecutors' inspection as the institution responsible for the oversight of prosecutors' activity. Exclude the petty corruption cases from the competence of the Anticorruption Prosecutors' Office.

15. The leadership of **the prosecution service** shall be appointed **based on merits and in a transparent manner**. The legislation shall be also amended to exclude from the competence of the Anticorruption Prosecution Office the petty corruption cases and it shall be adequately staffed.
16. Stress the lack of **transparency of justice** and abusive usage of anonymization of data in court judgements. At the beginning of 2017, the websites of the courts (except the Supreme Court of Justice) excluded the possibility to search for judgments according to the names of the parties. These trends, altogether, raise a number of questions, given that lately more and more criminal cases are initiated against officials and public servants, which are of high public interest, and such limitations impede their monitoring. According to the law, judgments are public. CSP members recommend that all judgements are to be published, until new provisions with respect to balance between public interest, personal data and private life will be approved.
17. Call on Moldovan authorities to ensure the implementation of the remaining actions from the **National Human Rights Action Plan** (NHRAP) for 2011-2014 and ensure the timely adoption and implementation of a new NHRAP for 2017-2020. Promote the establishment of a Parliamentary oversight mechanism to enforce the ECHR rulings issued against Moldova.
18. Stress the lack of progress in ensuring **independent and accountable judiciary**. Firstly, the process of selection and promotion of judges has raised concerns in the past three years, as a result of disregarding procedures, selective approaches, and issues with candidate integrity. Secondly, issues with the lack of transparency and a poor decision making process of the Superior Council of Magistracy (SCM) have come to the forefront. Thirdly, there are worrying trends regarding the use of criminal justice against some judges and the reduced transparency of courts. Unfounded criminal cases against judges constitute severe means of intimidation, with potentially severe consequences for judicial independence in Moldova for

the years to come. Closed hearings in high profile cases set a dangerous precedent and pre-conditions for selective justice can significantly reduce the judiciary's accountability. Lastly, the absence of reforms in the judiciary will undermine all other reforms, in particular, economic and anti-corruption ones.

19. Stress the need for Moldovan authorities to: (i) amend the Law no. 178 on judges' disciplinary responsibility to provide more competences to Judicial Inspection in investigating and presenting the disciplinary case, (ii) repeal the amendments of the Law no. 122 of 2 June 2016 that limited the judges' discretion in declaring closed hearings, (iii) provide substantive reasoning for every decision on judges' career when the SCM ignores the points awarded by the Judges Selection and Career Board and/or when allegations of lack of integrity and other incompatibility issues are raised either in credible media investigations or in the President's refusal regarding a particular candidate; (iv) abandon the practice of adopting decisions behind closed doors by the SCM, except when the circumstances of the case justify.
20. Express concern with regard to reformation process of the Government structure and subordinate institutions, namely a possible **merge of the Ministry of Environment and Ministry of Agriculture**, domains which have conflict of interests because of management of chemical substances, protection versus exploitation of water and soil resources, management of waste coming from the livestock sector, etc. To record progress and achieve the reform of the sector so long-awaited and discussed for years and realization of the provisions of the Association Agreement, it is necessary that the Ministry of Environment becomes a solid institution, headed by a Minister who advocate for the improvement of the environment and not for irresponsible exploitation of natural resources to obtain short-term benefits, leaving no future for Republic of Moldova citizens.
21. To encourage Moldova's Government for close **cooperation with social partners**, to develop comprehensive policy to reduce informal economy through effective incentives for workers and employers to declare work, dissuasive sanctions for businesses that practice envelope payments, and strengthening of capacities of the labour inspection for law enforcement. There is a need to improve the mechanism to establish the minimum guaranteed average salary by negotiating it among social partners, based on the norms provided in the revised European Social Charter.
22. Call on the authorities to create the **additional financing mechanisms** for small and medium-sized enterprises and/or to develop other non-bank financing opportunities for

businesses as to reduce the negative impact of the banking crisis on the business environment.

23. Encourage the authorities to **exclude the differential treatment** of enterprises / institutions dependent on capital, statute or other criteria.
24. The CSP members emphasize the importance of **interconnecting and modernizing the infrastructure** (transport, energy, utilities or ICT) **and communication** (e.g. roaming) in the Republic of Moldova so as to reach quality standards similar to those in the European Union. Citizens of the Republic of Moldova must feel the positive impact of the measures adopted in the context of the European integration process of the country and this must also be reflected in the increase of the quality and accessibility of the essential services provided by the adequate infrastructure.
25. While noting certain progress in the area of **cooperation with civil society** by the adoption of the law allowing natural persons to donate 2% of their income taxes to non-governmental organizations, express concern over worrisome tendencies in the cooperation of Moldovan authorities with civil society organizations. Thus, CSP members reconfirm that in a state based on the rule of law, the civil society organizations play a key role in increasing transparency and accountability of public institutions. It is particularly important for all civil society organizations and media to be guided in their work by and respect the principles of transparency, fairness, professionalism and professional ethics. Call on the public opinion and development partners to closer monitor, prevent and disapprove all actions that come to undermine freedom of association, freedom of opinion and expression in the Republic of Moldova. Urge the Moldovan public authorities to an open, non-discriminatory and honest dialogue on issues of public interest, involving representatives of all non-governmental organizations and media, irrespective of their expressed opinions.

With regard to **DCFTA implementation and other economic related issues** the CSP members:

26. Acknowledge **the impact of the DCFTA on Moldovan terms of trade**, especially Moldovan exports of agricultural products which (with a 63% share of export to EU) increased by 25% on a year by year bases. For Moldovan authorities to fully bring DCFTA benefits it needs to increase the pace of reforms.

27. Recognize that **significant reforms were undertaken in the financial sector in the framework of Moldova/IMF agreement**. However challenges persist especially related to the bank ownership, lack on any potential credible investors in the sector, decreasing competitiveness in the banking sector, increase of the nonperforming loans in the overall credit portfolio and unclear banking resolution framework.
28. Are encouraged by the positive steps undertake in 2016 by Moldovan authorities with regards to: adoption of the **law on electricity and law on natural gas** which transpose relevant provisions from the third Energetic Package, review electricity tariffs. CSP members acknowledge the active role of the Energy Community and development partners in supporting this process and call on Moldovan authorities to ensure that national energy regulator is fully independent and transparent in its decisions and speed up the implementation on interconnection projects as to ensure more energy independence for Moldova.
29. Welcome the much-awaited adoption of the laws **transpose the EU 3rd energy package** in the area of electricity and natural gas in line with Moldova's commitments in the Energy Community Treaty. However, the real effects of the new energy legislation shall be visible only after proper implementation is unfolded. The reform of the National Energy Regulator is still in delay, as its independent functioning remains one of the backlogs. Thus, Moldovan authorities shall speed-up the adoption of the new Energy Law in line with the recommendations of the Energy Community Treaty Secretariat. Considering the objective of conclusion of the new energy interconnection infrastructure between Moldova and Romania by 2020, Moldovan Government should accelerate the process of conclusion of the technical design papers and start the construction works as soon as possible.