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3rd SHADOW REPORT

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SUMMARY AND RECOMMENDATIONS

**National Action Plan for the Implementation of the
EU-Moldova Association Agreement
NAPIAA II (2017-2019)**

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EXECUTIVE SUMMARY

Starting with 2015, the Institute for European Policies and Reforms (IPRE) had been monitoring the implementation of the commitments, set out in the EU-Moldova Association Agreement and thus, publishes its periodic shadow reports. The most recent IPRE Shadow Report was published on 22 December 2017 and focused on the evaluation of the implementation of the 2017-2019 National Action Plan for the Implementation of the Association Agreement (NAPIAA II) during quarters I-III of 2017¹.

In the course of the first Semester of 2018, the Government of the Republic of Moldova made changes and updates to the NAPIAA II. The update process had been cumbersome and long-lasting. Although, during the meeting of the Government of the Republic of Moldova of 28 March 2018, the approval of the changes to the NAPIAA II had been announced², three months later the Government returned again to the contents of the plan and approved a new Decision of the Government on amending and completing the NAPIAA II on 23 June 2018³. The updated NAPIAA II version was published in the Official Gazette on 28 June 2018.

The updated NAPIAA II has much fewer continuous measures, as the most NAPIAA II measures had been granted specific implementation timelines. Nevertheless, the new timelines are general. Therefore, some continuous actions became yearly, others quarterly and bi-annual. And some measures were granted limited timelines which refer to the NAPIAA II implementation period, which is 2017-2019. One of the main findings of the comparative analysis of the updated NAPIAA II with its original version shows that the authorities have preserved the most actions implemented in 2017, while the timelines of the measures which had not been achieved in 2017 had been replaced with timelines in 2018. At the same time, the short-term central public administration reform process had an impact on the effectiveness of the authorities responsible for the implementation of the NAPIAA II measures. The implementation and monitoring process had been altered. The approval of changes to the NAPIAA II and a delayed publishing thereof had complicated the evaluation process.

The purpose of this Shadow report is to offer an independent quantitative and qualitative evaluation of the results achieved by 30 June 2018 in implementing the commitments of the Association Agreement, in line with the objectives set out in the NAPIAA II.

IPRE shadow monitoring has three main objectives and in particular (1) the wider public and the media are provided with a shadow assessment to that of the Government on the path of accomplishing the commitments set forth in the EU Association Agreement; (2) the level of authorities' accountability for the realization of the domestic reforms agenda is enhanced and (3) the efforts of the civil society and development partners in evaluating the path of realization of domestic reforms related to the Association Agreement are supplemented.

This Report had evaluated **679 out of 1487 measures set out in the NAPIAA II, including those which were initiated in 2017**, of which **617 measures** were to be fulfilled by the end of the 1st Semester 2018 and **34 measures** with a continuous timeline of implementation (2017-2019). At the same time, **28 measures** which had been accomplished ahead of the schedule had been accounted for. Out of the **617 measures** which had been evaluated by the end of 1st Semester 2018, **280 actions had been realized**, 230 measures are under realization, including 33 measures with a continuous timeline of implementation. 108 measures had not been initiated. On top of that, **28 measures** had been realized ahead of the schedule.

¹ The shadow report no.2 (Quarters I-III 2017) on the implementation of the NAPIAA 2017-2019, IPRE, 22 December 2017, <http://ipre.md/2017/12/22/al-ii-lea-raport-alternativ-privind-implementarea-acordului-de-asociere-cu-ue-trimestrul-i-iii-2017/>

² Press release of the Government of the Republic of Moldova of 28.03.2018 on the "Action plan for the implementation of the EU-Moldova Association Agreement shall be updated", <https://gov.md/ro/content/planul-de-actiuni-pentru-implementarea-acordului-de-asociere-rm-ue-va-fi-actualizat>

³ Decision of the Government no.529 of 23 June 2018 on approving changes and additions to the NAPIAA 2017-2019, <http://lex.justice.md/md/376151/>



Thus, taking stock of the results of the implementation of 679 analyzed measures, by 30 June 2018 **the NAPIAA had been accomplished at the rate of 41.2%**. It is underscored that a rate of 4.1% of the measures had been accomplished ahead of the schedule. At the same time, over **38.7% of measures are under implementation**, while in relation to **15.9%** of measures, implementation actions had not been initiated.

At the same time, **the overall rate of implementation of the NAPIAA by 1 July 2018 was 20.7%** of the measures related to all measures planned until the end of 2019. This is an important indicator, as it shows that national authorities must undertake an enhanced effort to succeed in accomplishing all those almost 80% of remaining measures in the NAPIAA II (Section 1.2 of this Report).

Following a comparative analysis of the statistic accomplishment rate on each of the 5 evaluated Titles of the Association Agreement, we note that by 30 June 2018, the most achievements referred to the implementation of the measures corresponding to Title V (Trade and trade related issues - DCFTA), which an accomplishment rate of 57.8%, while the lowest accomplishment rate is noted in relation to measures set out in Title III (Justice, freedom and security) - 29.6%.

The quantitative analysis had been revisited from the qualitative perspective of the accomplished actions. Thus, each title had been given a progressive score from 1 to 5, respectively from regress to progress, according to the Report evaluation methodology (Annex 2).

The main conclusions of the qualitative evaluation of the priority measures set out in the NAPIAA II are that by the end of 2018, in general, the progress had been very limited (score 2.6 out of 5). This finding is underpinned by the mean appreciation of each of the 5 Titles of the NAPIAA (Section 1.3 of this Report).

However, compared to the appreciations in the no.2 IPRE shadow report, published on 22 December 2017, **a qualitative regress is noted, due to the limited progress** in accomplishing the objectives of the Political Dialogue and Reforms, set out in **Title II** and those which refer to the capitalization of the financial assistance in line with **Title VI of the NAPIAA II**. Also, as regards the fulfilment of the objectives in the area of justice, freedom and security, set out in **Title III of the NAPIAA II, one notes lack of significant progress** compared to 2017.

At the same time, the best NAPIAA II qualitative realization indicator is noted in relation to the implementation of measures referring to Trade and trade related issues (DCFTA), set out in **Title V**. Here, as in 2017, **moderate progress** is noted, in particular due to the increase in the share of trade with the EU to 68.48% and to the promotion of legal measures of EU acquis transposition in the area of animal health, packaging of products of animal origin, provision of financial and audit services.

Following a qualitative analysis, this report synthesizes (1) main conclusions relevant for each Title of the Association Agreement, formulating, at the same time, a range of (2) key recommendations that shall be considered in order to advance the Association Agreement implementation process (Sections 1.3 and 1.4 of this Report).



1.1. GENERAL ASSESSMENT OF THE QUANTITATIVE ANALYSIS

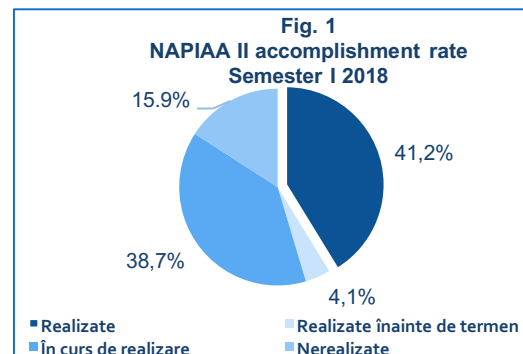
NAPIAA ACCOMPLISHMENT RATE (I SEMESTER 2018) - 41.2% - ACCOMPLISHED MEASURES

In total, NAPIAA II includes **1487 implementation measures**, grouped in three categories and in particular laws (L and TL), by-laws (SL and TSL) and implementation measures (I). For the purpose of this Report, the authors have analyzed a total of **679 measures** including those initiated in 2017 and in particular as follows: **617 measures** with the deadline at 1st Semester 2018 and **33 measures** with the continuous implementation timeline (2017-2019). At the same time, **28 measures** which had been accomplished ahead of the schedule had been accounted for.

	No. of measures	Accomplished	Under realization	Unaccomplished
Measures analyzed within the reporting period	679	308	263	108
Measures with a set timeline - 1st Semester 2018	617	280	230	107
Measures with a continuous timeline	34	-	33	1
Measures implemented ahead of schedule	28	28	-	-
<i>NAPIAA II (2017-2019)</i>	<i>1487</i>	<i>308</i>	<i>263</i>	<i>108</i>

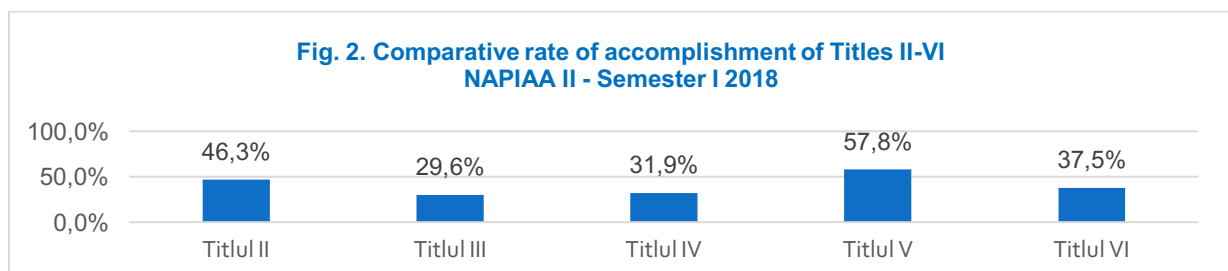
Table 1. NAPIAA II accomplishment rate - 1st Semester 2018

Out of the **617 measures** which had been evaluated by the end of 1st Semester 2018, **280 actions** had been realized, 230 measures are under realization, including 33 measures with a continuous timeline of implementation. 108 measures had not been initiated. On top of that, **28 measures** had been realized ahead of the schedule. Thus, taking stock of the results of the implementation of 679 analyzed measures, by 30 June 2018 an **accomplishment rate of 41.2% is registered (Fig.1)**. It is underscored that a rate of 4.1% of the measures had been accomplished ahead of the schedule. At the same time, over **38.7% of measures are under implementation**, while in relation to **15.9% of measures**, implementation actions had not been initiated.



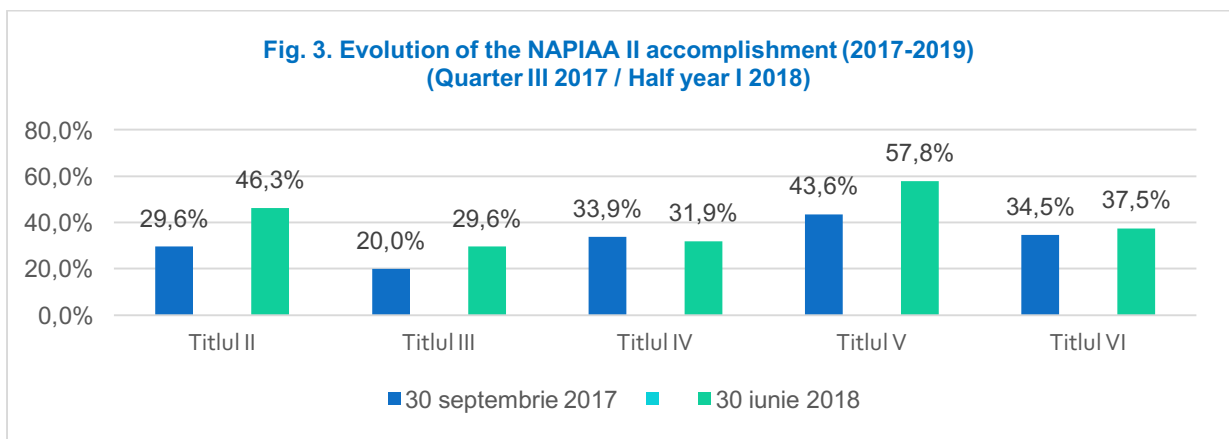
COMPARATIVE ACCOMPLISHMENT RATE OF THE NAPIAA II IN ITS TITLES II-VI - 1ST SEMESTER 2018

Following a comparative analysis of the statistic accomplishment rate on each of the 5 evaluated Titles (Fig.2), we note that by 30 June 2018, the most achievements referred to the implementation of the measures corresponding to Title V (Trade and trade related issues - DCFTA), which an accomplishment rate of 57.8%, while the lowest accomplishment rate is noted in relation to measures set out in Title III (Justice, freedom and security) - 29.6%. The results of the quantitative analysis are also substantiated by the general findings of the qualitative analysis presented in the following section.



Looking at how the NAPIAA II implementation path unfolded in relation to the five titles at the end of the IIIrd Quarter 2017 and end of Ist Semester 2018 (Fig.3), we find that there is a sustained development of the implementation of the measures related to Title V (Trade and trade related issues - DCFTA) from 43.6% to 57.8% and Title VI (Financial and anti-fraud assistance) from 34.6% to 37.5%.

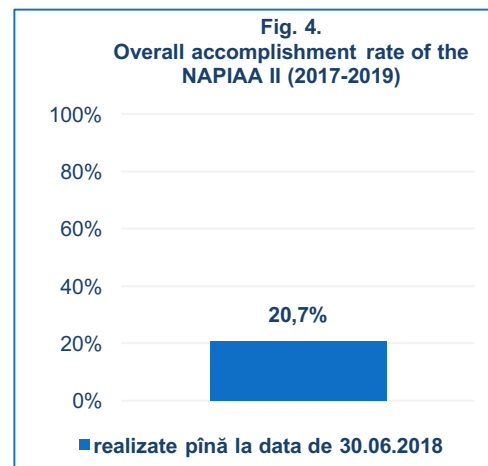
At the same time, one notes an increase in quantitative results with respect to Title II (Political dialogue and reforms) from 29.6% to 46.3% and Title III (Justice, freedom and security) - from 20% to 29.6%. However, these developments are not necessarily reflected also in the qualitative assessment of these two titles, because of the limited impact of the fulfilled actions. As regards Title IV (Sector and economic cooperation), we note a slight involution from 33.9% to 31.9%, the main reason being that most of the measures in this title are in the process of implementation.



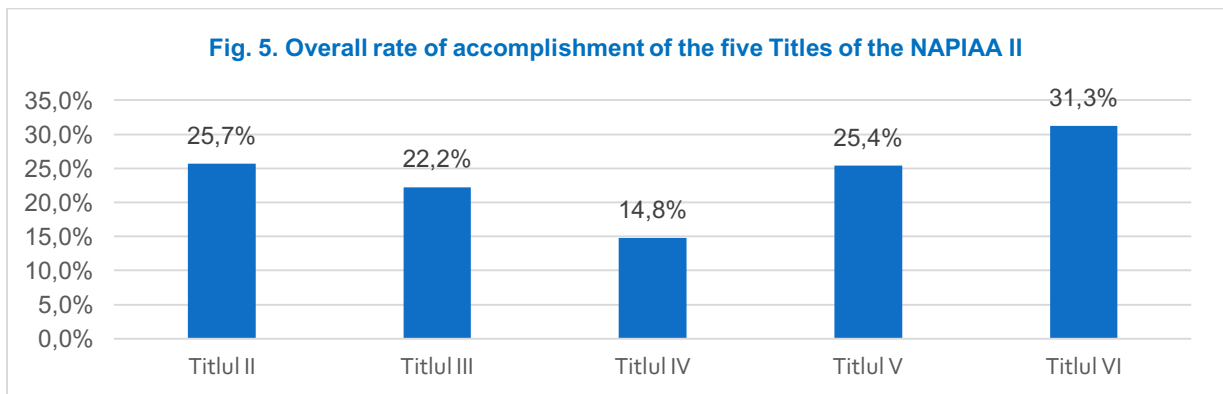
THE OVERALL ACCOMPLISHMENT RATE OF THE NAPIAA II IS 20.6%.

To provide a general impression with regard to the measures accomplished by 30 June 2018, but more importantly, to those which are to be accomplished by the end of 2019, related to all the **1487 measures** set out in the NAPIAA II for 2017-2019, we found that a total of **308 measures had been accomplished**, which is an **overall accomplishment rate of 20.7%** (Fig. 4).

Thus, the authorities shall considerably enhance the dynamics of the implementation of the NAPIAA II in the next year and a half, in order to manage to realize all planned measures, given that by the end of the implementation period the Government still has to implement about 80% of the planned measures.



Assessing the overall accomplishment rate for the five titles of the NAPIAA II, related to the total measures planned by the end of 2019 (Fig.5), we'd identified that the most measures which had been already fulfilled referred to Title VI (Financial assistance and anti-fraud provisions) - 31.3% and Title II (Political dialogue and reforms) - 25.7%. At the same time, the lowest accomplishment rate is found in relation to Title IV (Sector and economic cooperation) - 14.8%, followed by Title III (Justice, Freedom and Security) - 22.2% and Title V (Trade and trade related issues) - 25.4%.



Here, one should pay attention to some discrepancies between the quantitative results and qualitative evaluations of the analyzed titles, which refer mainly to titles II, III and VI, where, even if the statistic results are better, their impact is limited and proves a limited effort of transposing the approved measures into life.

On the one hand, the explanation of this finding is that many of the measures set out in Titles II, III and VI had been included in the list of technical conditions, provided for by the Memorandum of understanding on EU macro-financial assistance for the Republic of Moldova. However, on the other hand, a range of involutions were noted, for instance with regard to the controversial cancelling of the results of the elections for the mayor general of the municipality of Chisinau, promotion in the judicial of judges with integrity issues, maintenance of selective justice practices in the case of investigating the banking fraud or promoting controversial laws, which permit the legalization of capital.

This has mainly led to a postponement and subsequently to the suspension of the first installment of the EU macro-financial assistance, but, in practice, also to freezing EU direct budget support for the Government of the Republic of Moldova in July 2018.



1.2. GENERAL ASSESSMENT OF THE QUALITATIVE ANALYSIS

GENERAL FINDING OF THE QUALITATIVE ANALYSIS - LIMITED PROGRESS (SCORE 2.6)

The main conclusions of the qualitative evaluation of the priority measures set out in the NAPIAA II are that by the end of 2018, in general, the progress had been very limited (score 2.6 out of 5). This finding is underpinned by the mean appreciation of each of the 5 Titles of the NAPIAA (Section 1.3 of this Report).

However, compared to the appreciations in the no.2 IPRE Shadow Report, published on 22 December 2017, a **qualitative regress is noted, due to the limited progress** in accomplishing the objectives of the Political Dialogue and Reforms, set out in **Title II** and those which refer to the capitalization of the financial assistance in line with **Title VI of the NAPIAA II**. Also, as regards the fulfilment of the objectives in the area of justice, freedom and security, set out in **Title III of the NAPIAA II**, one notes **lack of significant progress** compared to 2017.

At the same time, the best indicator of NAPIAA II qualitative realization is noted in relation to the implementation of measures referring to Trade and trade related issues (DCFTA), set out in **Title V**. Here, as in 2017, **moderate progress** is noted, in particular due to the increase in the share of trade with the EU to 68.48% and to the promotion of legal measures of EU *acquis* transposition in the area of animal health, packaging of products of animal origin, provision of financial and audit services.

Following a qualitative analysis, this report further synthesizes the main conclusions relevant for each Title of the Association Agreement, formulating, at the same time, a range of key recommendations that shall be considered in order to advance the Association Agreement implementation process.

1.2.1. POLITICAL DIALOGUE AND REFORMS (TITLE II) - LACK OF PROGRESS (SCORE 2)

1. *Even if the quantitative analysis indicates an accomplishment rate of 46.3% and a significant effort made by the domestic authorities in promoting the legislative measures, the overall assessment of the qualitative analysis of Title II, compared to 2017 is **lack of progress**.*
2. **A number of legislative and institutional measures** had been undertaken in the area of human rights. Consolidation of inter-ethnic relations. Initiation of the implementation of the National Integrity and Anti-Corruption Strategy (NIACS). Operationalization of the activity of the National Integrity Authority (NIA). Continuing cooperation on foreign and security policy. Enforcement of the protocol decisions in the context of the country's reintegration. Extended cooperation with the EUBAM and consolidation of the Moldovan-Ukrainian border management.
3. *In spite of all of these, **the realized measures had not been enough for scoring quality progress** in accomplishing the objectives set out in the area of Political dialogue and reforms. **The main reason is the slowing down and practically the cooling of the EU-Moldova political dialogue in the middle of 2018** because of (1) the cancellation of the results of the local elections in the municipality of Chisinau, (2) the failure to approve the law on business organizations, (3) backlogs in the judiciary reform, (4) lack of progress in the investigation of the banking frauds and (5) lack of an integrated vision at the national level with regard to the reintegration of the country.*
4. *At the moment **the official EU-Moldova political dialogue stepped into a phase of uncertainty, where there is an increased risk that the official EU-Moldova relations would be frozen** until the results of the parliamentary elections, planned for 24 February 2019, are announced.*
5. *The legal framework on **human rights protection** had been improved by approving a new National human rights action plan for 2018-2022, however, there are certain backlogs in the law-making and in the initiation of the implementation of laws. The National Human Rights Council and the permanent Human Rights Secretariat had not been established.*



6. **The judiciary reform is one of the main backlogs.** The implementation of the "Small Justice Reform" was initiated at the beginning of 2018, when a number of legislative initiatives designed to consolidate the independent functioning of the justice had been launched. Nevertheless, the cases of selective justice, the non-transparent manner of promoting judges, as well as the controversial court orders on the cancellation of the results of the local elections in Chisinau, confirm the severity of the problems that the justice of the Republic of Moldova faces and the lack of any positive developments.
7. Although the IInd KROLL report has been completed and the authorities have submitted the Funds recovery strategy, **the investigation of the banking fraud and the recovery of the stolen funds have hardly advanced**, in particular in the part that refers to funds' recovery.
8. **The National Integrity Authority has started its activity.** The on-line system of filing property statements and statements of interests became operational. However, it continues to be essential to complete the process of contracting integrity inspectors.
9. **The approval of a new law on non-commercial organizations**, developed in close cooperation with civil society experts and which complies with the best practices and standards on the freedom of association, lags behind.
10. EU-Moldova cooperation in **foreign and security policy** continued via regular bilateral meetings, alignment to EU declarations and decisions in the area of security and defense policy. The EU agreement on security procedures for the exchange and protection of classified information entered into effect.
11. **There was no advancement in developing a common Strategic vision on the settlement of the Transnistrian conflict and country reintegration.** The domestic authorities are concerned, in particular, with the implementation of arrangements agreed within the "Berlin Plus" agenda. At the same time, the UN Assembly General has approved, for the first time, a resolution which calls upon the Russian Federation to withdraw completely and unconditionally the Operational Group of Russian Troops (OGRT) illegally stationed on the territory of the Republic of Moldova.
12. **The EUBAM mission continues providing the necessary support in consolidating the integrated border management**, in implementing the joint control on the Moldovan-Ukrainian border crossing points. **The Agreement on establishing joint control at the Moldovan-Ukrainian border crossing points has entered into effect**, including on the Transnistrian segment until 1 January 2019.

1.2.2. QUALITATIVE FINDINGS: TITLE III - **LACK OF PROGRESS (SCORE 2)**

13. In general, the area of **Freedom, Security and Justice, provided for in Title III** has not registered any quality progress during the analyzed period, which is also confirmed by the lowest quantitative accomplishment rate scored in comparison to other Titles of the NAPIAA, which is 29.6%.
14. **Even if certain positive developments had been registered in promoting public policies** which refer to the rule of law and fight against corruption, **the actions and events of the last months denote the vulnerability of the rule of law system in general.**
15. The rule of law area had registered only insignificant progress, by approving amendments to the Civil Proceedings Code, which refer to the simplification procedure for reviewing civil cases. One approved amendments (not yet published) to the control of judicial inspection and the role of the disciplinary college. Still, in practical terms, the society had been considerably affected by the invalidation of the new elections in the municipality of Chisinau, without the Superior Council of Magistracy or the Prosecutor's General Office undertaking actions with regard to the lawfulness of the orders ruled by the judges in all the three courts.
16. **There had been no progress in promoting public policies** which refer to **personal data protection.**



17. **The area of fight against corruption had progressed** by approving the **Law on whistleblowers**. In spite of all of these, the deterring sanctions for acts of corruption had not been promoted, while the National Anti-Corruption Center continues to be responsible for the criminal prosecution of the cases of petty corruption.
18. Although the law provides for the instruments for sanctioning judges which issued obviously illegal orders, including by means of disciplinary sanctions or even by starting criminal cases, both **the Superior Council of Magistracy as well as the Prosecutor's General Office have not undertaken actions to check the lawfulness of the court orders issued in the context of invalidation of the new elections in the municipality of Chisinau**, which happened in mid 2018.
19. At the same time, **the approval at a difference of half a year of two laws which contradict each other - the Law 308/2017 on preventing and combating money laundering and terrorist financing and the Law 180/2018 on voluntary declaration and fiscal incentives, denotes that there is no understanding of principle and there is no consensus on what is admissible and inadmissible in the area of preventing and combating money laundering**.
20. The last two findings have determined, in fact, a **regress in the area of rule of law and anti-money laundering**, however, since a range of actions referring to the sectors of Title III had been still promoted, **the overall appreciation of the area was lack of progress**.

1.2.3. ECONOMIC AND SECTOR COOPERATION - **LIMITED PROGRESS (SCORE 3)**

21. As a result of the qualitative evaluation of the measures **related to the objectives of economic and sector cooperation, provided for in Title IV, the progress is limited**. The most of the planned measures are under implementation.
22. There had been an advancement in the **implementation of the public administration reform**, via the reform of the public authorities and public institutions subordinated to the ministries. However, the process had been realized in a hurry and in a non-transparent manner.
23. **A new law on the organization and operation of the Court of Accounts had been passed**. The types of audit, the manner of audit planning, audit procedures, the status of the personnel had been redefined and the area of audit had been extended, in particular in the economic sector with the participation of the state.
24. A range of by-laws for the implementation of the energy law had been promoted. A new energy efficiency law had been passed. Efforts to prepare the implementation of energy interconnection projects between the Republic of Moldova and the European Union had been undertaken, in particular by **signing the pre-agreement on SC "Vestmoldtransgaz" privatization with the Romanian "Transgaz"**. However, in the reference period there were delays concerning the completion of the transfer of the obligation to "Transgaz" company and respectively, in the beginning of the construction of the natural gas pipeline Ungheni-Chisinau.
25. **There had been established a single tax of 12% for individuals, personal exemption being increased**. The document also sets forth the introduction of a reduced VAT rate for accommodation and catering amounting to 10% and a special regime of application of taxes for taxi services providers. **This legal initiative had been criticized by the International Monetary Fund**, noting that it does not align to the objectives of the IMF supported program. Moreover, the implementation of the actions which were not provided for in the NAPIAA II, such as the Law on voluntary declaration and fiscal incentives, limited even more the accomplishments within this Title.
26. One promoted sector regional programs in **the area of economic and tourism development** in the four existing development regions. However, one failed to promote the Concept of urban management plan.

27. **One had failed to establish the multiannual public investments program.** Investments without priorities and long-term vision contribute to the waste of resources, erosion of trust from citizens and to the decrease of economic opportunities.
28. The Parliament had finally passed the Code of audio-visual media services of the Republic of Moldova. A backlogged measure in the last years. The objective of the document is to assure the citizens right to receive correct information, to contribute to free formation of opinions and guarantee the right to editorial independence and freedom of speech. However, the new Code had not been published in the Official Gazette so far.
29. At the same time, in general **the situation of the media continues to be influenced by the phenomenon of concentration of ownership and monopoly of the publicity market.** Starting early this year, there were a number of cases of **intimidation of journalists.**
30. **The dynamics of the relationship between the civil society and authorities had been negative,** even if the Parliament had approved the Civil society development Strategy for 2018-2020 and its Action plan and approved in the first reading the draft law on non-commercial organizations. The public discourse focuses on division and conflict instead of focusing on a constructive dialogue, that would aim at consolidating the cooperation between the civil society and the public sector.

1.2.4. TRADE AND TRADE RELATED ISSUES (DCFTA) - TITLE V - **MODERATE PROGRESS (SCORE 4)**

31. The accomplishment of the objectives regarding trade and trade related issues, set forth in Title V, scored the most results. **The qualitative analysis proved a moderate progress,** confirmed also by the highest statistic accomplishment rate - 57.8%. Nevertheless, the accomplished results refer rather to previously made efforts, while the actions undertaken within the analyzed period would prove their impact within the subsequent analysis periods.
32. The exports **to the EU have grown** compared to the same period of 2017, (+28%), registering a **share of 68.48% of the total exports of the Republic of Moldova.** With reference to some chapters of products, which are limited by means of the anti-circumvention mechanism (processed cereals, corn), the limits set by the AA/DCFTA had been already exceeded.
33. There is an increase in the share **of exports of machines and equipment,** which grew by 60% compared to the same period of 2017, reaching 26% of total exports of the Republic of Moldova to the EU.
34. At the same time, **it had not been managed to promote exports of food products, such as meat products, dairy and eggs,** because of the lack of a significant progress in the implementation of **the commitments related to sanitary and phytosanitary measures.**
35. With regard to the transposition of the EU legislation into the domestic normative framework, a series of progresses had been achieved in the **veterinary area** (the Law on medicines for veterinary use), **consumer information about the contents of food products** (Law on consumer information about the food products), **packaging of food products** (restricted use of certain substances in the composition of packaging that comes into contact with the food products), but also areas related to the **rights of establishment** (facilitation of registration of key personnel of EU companies), **services provision** (amendments of the Law on e-commerce) **accounting, financial reporting and audit** (the Law on accounting and financial reporting, the Law on the audit of financial statements), **financial services** (the Law on banking activity, the Law on non-banking crediting organizations),
36. Nevertheless, **there are backlogs with regard to actions of analyzing the normative and regulatory framework,** as well as actions of analyzing the export potential of agricultural produce, industrial products included in the context of negotiations of the Agreement of conformity evaluation and acceptance of industrial products, removal of barriers for establishing EU companies in Moldova, as well as for cross-border provision of services.

1.2.5. FINANCIAL ASSISTANCE, ANTI-FRAUD PROVISIONS - TITLE VI - LACK OF PROGRESS (SCORE 2)

37. There was **moderate progress in implementing legislative and institutional measures in particular with regard to the chapter on anti-fraud and control provisions**. The results were mainly due to the commitments provided for in the Memorandum of Understanding on the EU macro-financial assistance and the priorities of the Association Agenda.
38. In spite of all of the above, considering that by mid 2018 the EU decided to **suspend the macro-financial assistance and delay the disbursement of budget support programs**, we noted a regress with regard to the EU financial assistance. Respectively, the general appreciation as a result of the qualitative review of Title VI is the **lack of significant progress**.
39. **The national foreign aid coordination mechanism had been revised**. The Ministry of Finance had been designated as the national foreign financial assistance coordination authority, while the State Chancellery shall continue to coordinate technical assistance programs.
40. **In relation to the Republic of Moldova, the European Union consistently applies the principle of strict conditionality of foreign aid**. In this connection, the European Commission decided to postpone the disbursement of the tranches of budget support programs planned for 2018. And the Government of the Republic of Moldova runs the risk to miss about 45 mln. EUR.
41. Although the domestic authorities have made efforts to meet the technical conditions, because of the negative evaluation of the political conditionality, **the European Commission suspended the disbursement of the first tranche of 30 mln. EUR as macro-financial assistance**.
42. **At present, the Republic of Moldova runs the risk to fully miss the 100 mln. EUR of EU macro-financial assistance** should the slippages which refer to the functioning of the democratic institutions and of the rule of law not be remedied.
43. At the same time, at the national level **one promoted amendments to the domestic legal framework on criminalization of inconsistencies, conflicts of interests and restrictions which refer to persons which hold public positions, including those which refer to issues concerning negotiations, management or execution of financial means from public funds or from foreign funds**. And the NACC initiated criminal investigations on the basis of strategic analyses concerning the administration of programs supported by EU funds.
44. **The NIA has been operationalized**. Over 63 thousand property statements and statements of interests had been submitted via the new on-line system "E-Integrity". Nevertheless, the NIA contracted **only 4 integrity inspectors out of the 46 planned staff, which affects the effectiveness of the assessment and verification of incompatibilities, conflicts of interests and restrictions in a public position**.
45. **CARA (Criminal assets recovery agency) launched its operations with regards to the recovery of criminal assets**. Within the reference period, 56 delegations have been reviewed, of which 19 had been executed. Also, CARA, in cooperation with other competent authorities, conducted parallel financial investigations with a view to recovering assets, generated as a result of committed crimes. Nevertheless, **the national mechanism of cooperation among institutions with powers in criminal assets recovery had not been operationalized**.

As a result of these findings, below are the key **Recommendations** relevant to each Title evaluated for the implementation of the NAPIAA (2017-2019) in the nearest future.



1.3. **KEY RECOMMENDATIONS WITH REGARDS TO THE IMPLEMENTATION OF THE NAPIAA**

1.3.1. TITLE II - POLITICAL DIALOGUE AND REFORMS

POLITICAL DIALOGUE

1. There is a need for an inclusive re-evaluation of the current framework of relations with the European Union, with the participation of the authorities of the Republic of Moldova, the civil society and development partners in order to identify obstacles and the necessary pre-conditions for unlocking the EU-Moldova political dialogue on the basis of the objectives of the EU-Moldova Association Agenda.
2. Development of a Road map on the consolidation of democracy, rule of law and human rights in the Republic of Moldova in line with the commitments provided for in the Association Agreement, which shall include a list of short-term actions on:
 - a) preparation and organization of free and fair elections, in particular by (a) envisaging guarantees for excluding intimidating practices applied in relation to the opposition and local government representatives; (b) strengthening of requirements which refer to the financing of political parties and election campaigns; (c) assurance of conditions for organizing the election observation process; (d) extending of official invitations to permanent international missions of observing and monitoring the process of preparing and organizing parliamentary elections;
 - b) small justice reform implementation⁴;
 - c) establishment of a mechanism with the participation of independent experts from among the civil society and international observers for external monitoring of court processes on high profile cases, related, in particular, to the investigation of the banking frauds and those in election area. The purpose is to raise the transparency level of these processes, respecting the confidentiality of data obtained by international experts, by means of signing commitments for not disclosing sensitive data;
 - d) the engagement of international experts in the process of assessing the integrity of judges and prosecutors;
 - e) assuring the efficient functioning of the system of integrity, of fighting high profile corruption, of assets recovery and of fighting the money laundering;
 - f) consolidation of media independence and pluralism, limitation of media ownership concentration, creation of conditions for the functioning of a publicity market that would abide by competition rules and implementation of the new Code on audio-visual media services;
 - g) establishing guarantees for the functioning and development of the civil society in the Republic of Moldova, prevention and combating of cases of intimidation and discrediting of the civil society representatives, as well as the approval of the Law on non-commercial organizations.

HUMAN RIGHTS

3. Speeding up of the process of adopting the Government Decision by establishing the National Human Rights Council, in charge of monitoring the implementation of the NHRAP III and a permanent Human Rights Secretariat.
4. Reflecting in the Mid-Term Budgetary Framework for 2018-2020 the financial resources necessary for the implementation of NHRAP III.

⁴ <http://www.justice.gov.md/pageview.php?l=ro&idc=715>



NON-DISCRIMINATION AND EQUALITY ASSURANCE

5. Speed up the process of developing and promoting legislative amendments, which would contribute to increased efficiency and consolidation of the activity of the Equality Council, that would refer in particular to the following:
 - a) increase the staffing,
 - b) consolidate financial autonomy, and
 - c) remove legal inconsistencies on the functioning of the Council;
6. Assure the accessibility of the premises of the Council for the specific needs of persons with disabilities, by allocating the necessary financial resources;
7. Implementation by the national authorities of the recommendations of the Equality Council, mentioned in the report of 2 March 2018⁵;

CONSOLIDATION OF INTER-ETHNIC RELATIONS

8. Implementation of the Action plan on the enforcement of the Strategy for consolidating inter-ethnic relations (2017-2027) in cooperation with the development partners and the civil society;
9. Capacity building of the Ministry of Education, Culture and Research (MECR) in the process of drafting and monitoring policies in the area of inter-ethnic relations and functioning of languages by contracting and training the necessary staff of the MECR.
10. Institutional capacity building of the Agency for inter-ethnic relations in the process of implementing policies in the area of inter-ethnic relations and the proper Strategy for 2017-2027.
11. Appointing a counselor, within the Moldovan Prime-Minister's Cabinet, that would be responsible for the consolidation of inter-ethnic relations, that would assure better coordination and cooperation with regards to the implementation of the objectives of the sector Strategy between the MECR and AIR, as well as other public authorities.

PREVENTING AND COMBATING TORTURE

12. Implementation of the recommendations of the European Council for Torture Prevention;
13. Implementation of the recommendations of the Ombudsman addressed to the competent national authorities, noted in the Special report on the results of ex officio investigation of the case of death in the state custody of Andrei Braguta (December 2017);
14. Capacity building of the prosecutors responsible for investigating cases of torture and ill-treatment, as well as the enhancement of efficiency in the process of documenting cases;
15. Consolidation of the independence and building of capacities of the Council for Torture Prevention as a National Torture Prevention Mechanism;
16. Assuring conditions for the comprehensive rehabilitation of all victims, subject to torture, inhuman or degrading treatment;

HUMANIZATION OF CRIMINAL POLICY

17. Development and publication by the National Anti-Corruption Centre of an ex-post anti-corruption expert review for the draft law on liberation from criminal liability and revision of sanctions for economic crimes approved and in effect (the Law no.179 dated 26.07.2018).
18. Development and publication by the Government of the Republic of Moldova of the ex-post analysis of the impact of the Law no.179 of 26.07.2018 on the amendment and completion of some laws.

LAW ON NON-COMMERCIAL ORGANIZATIONS

19. Approval in the final reading of the Law on businesses organizations in the initial version proposed by the Government. Any proposal to amend the draft law, which is submitted while it is reviewed by

⁵ CNPDAE, Activity report for 2017, available in Romanian, dated 02.03.2018 at: http://egalitate.md/wp-content/uploads/2016/04/raport-_CPEDAE_2017.pdf



the Parliament, shall be promoted in a transparent manner and in consultation with the civil society organizations.

JUSTICE SECTOR REFORM

20. NAPIAA II must provide for more ambitious measures with regard to the judiciary reform;
21. The re-evaluation of the Justice sector reform strategy 2011-2016, as well as of the implementation results of the "Small justice reform". Evaluation results must be at the basis of the development and approval of a new Mid-term and long-term justice sector reform strategy by the beginning of 2019.
22. Inclusion of additional measures, that would refer to the objective of the consolidation of the independence of the Superior Council of Prosecutors. Promotion of additional measures to assure procedural independence and the diminishing of the supervisory role of the prosecutors. At the moment, the NAPIAA II actions in this regard are too general and do not include appropriate indicators for progress evaluation.

PREVENTING AND COMBATING CORRUPTION

23. Implementation of the National Integrity and Anti-Corruption Strategy for 2017-2020.

BANKING FRAUD INVESTIGATION

24. Sanctions issued by judges which review criminal cases, including high profile cases of procedural actions applied in bad faith that refer to the delay of the criminal proceedings (request of postponement for reasons of sickness, with subsequent participation at public events, etc.);
25. Efficient organization of the work process on cases related to the banking fraud, including due to their complexity and special importance by diminishing intervals between the court sessions.
26. Efficient application of mechanisms to identify, seize and confiscate assets which resulted from crimes, in particular with regard to cases related to the banking fraud;

OPERATIONALIZATION OF THE NATIONAL INTEGRITY AUTHORITY

27. The completion of the process of contracting integrity inspectors within the National Integrity Authority and increase in the intensity of verification of property statements and statements of personal interests, filed by the subjects;
28. Assurances of the connection of the National Integrity Authority to the main registers and data bases which refer to assets, banking accounts, including the gradual set-up of data exchange with the similar competent authorities from other countries, first of all EU member states;

FOREIGN AND SECURITY POLICY

29. Implementation of and capitalization on the EU-Moldova Agreement on security proceedings for the exchange of classified information;
30. Advancement of negotiations on the launch of the strategic EU-Moldova dialogue in the area of security;
31. Advancement of EU-Moldova cooperation on combating hybrid threats and consolidation of cyber security;
32. Building strategic communication (STRATCOM) capacities at the national level, with the support of StratCom East;
33. Consolidation of the national mechanism of recruiting, training, appointment and participation of domestic experts in missions and international operations.

TRANSNISTRIAN SETTLEMENT

34. Develop a national strategic vision on the reintegration of the country, in line with the provisions of the Constitution of the Republic of Moldova and which would also foresee a post-settlement agenda;



35. Assure an efficient and inclusive mechanism of monitoring the process of enforcement of the protocol arrangements, agreed upon by Chisinau and Tiraspol;

THE EUBAM MISSION AND MOLDOVAN-UKRAINIAN COOPERATION ON BORDER MANAGEMENT

36. Capitalization on the EU support and the support of the EUBAM Mission with a view to operationalizing, by the end of 2018, the complete joint management at the Moldovan-Ukrainian border crossing points, including on the Transnistrian segment;
37. Completion of negotiations with regard to bilateral protocols between the customs and border authorities of the Republic of Moldova and Ukraine on organizing the complete joint control at the Moldovan-Ukrainian border crossing points.

1.3.2. TITLE III - JUSTICE, FREEDOM AND SECURITY

RULE OF LAW

38. Functional supplementation of the judicial inspection and the disciplinary college to assure efficient implementation of amendments to the Law on disciplinary accountability of judges;
39. The use of available resources to initiate judicial investigations and apply disciplinary sanctions to judges which issue clearly illegal and groundless orders;
40. Consolidation of the budgets of specialized prosecution services to assure these institutions with the necessary transparency and disclosure to the public of data that refer to their activity;
41. Return to the concept of the reform of the Constitutional court via the composition and the manner of selecting the judges of the Constitutional Court;
42. Enforcement of foreign users access modules to the Integrated cases management software, including for assuring more rapid access to the instruments of filing applications, written evidence, demarches and requests to apply assurance measures, for at least civil cases at this stage;
43. The sanctioning of judges, including by starting criminal cases for obviously illegal court orders;

PERSONAL DATA PROTECTION

44. Promotion of the draft Law on video surveillance and the acts of the central administration authorities through the light of personal data protection;
45. Review of opportunities of supplementing staff for the National Centre for personal data protection to make sure that it can efficiently exercise the tasks set forth in the NAPIAA II and other strategic planning documents;

FIGHT AGAINST CORRUPTION

46. Return to the exercise of reviewing the competences of the National Anti-Corruption Centre that refer to criminal prosecution in cases of petty corruption, that would also offer the Anti-Corruption Prosecution the possibility to focus on high profile corruption and other cases of major importance, such as the investigation of the banking fraud;
47. Enforcement of the Law on whistleblowers, including by approving department level acts on enforcing the new Law. Review of the structure of staff of the Ombudsman office, to assure an efficient implementation of the Law;

COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

48. Waiver of the enforcement of the Law no.180/2018 on voluntary declaration and fiscal incentives, by repealing it as soon as possible;
49. Consolidation of internal structures of the Service for preventing and combating money laundering and establishing of cooperation and reporting instruments by the reporting entities in order to assure the collection of data on potential doubtful transactions, which fall under the money laundering or terrorist financing risk groups;



50. The revision of the existing normative framework on the access of companies with unknown structure of ownership and effective beneficiaries, including by restricting their participation in relations with public authorities, commercial banks, non-banking crediting societies, insurance companies and other participants on the financial banking and non-banking market;
51. Tough sanctioning of companies which conclude fictitious contracts or with companies about which there is no data on the structure of ownership or effective beneficiaries.

1.3.3. TITLE IV - ECONOMIC AND SECTOR COOPERATION

PUBLIC ADMINISTRATION REFORM

52. Focusing efforts on building the capacities of reorganized institutions and business processes within ministries, reorganization of the state-owned enterprises and public institutions and bringing those into the budgetary circuit;
53. Improving the dialogue between the central and local public authorities, civil society and the business environment, in particular in the context of implementing the administrative-territorial reform and continuing the decentralization process;
54. The use of dialogue, debates and promotion of less restrictive alternative measures, including the voluntary amalgamation set in an initial time frame, voluntary waiver of the mandate of local elected and mayor in the context of voluntary amalgamation, establishing financial incentives for the use of the voluntary amalgamation mechanism;
55. Better motivation of the civil service staff by approving the law on single remuneration system in the budgetary sector only after a wide consultation process with all stakeholders;
56. Conducting an ex-post assessment of the central public authorities which had been through the reform process in order to define the drawbacks and internal inefficiencies which impact their limited performance. A functional analysis would firstly focus on all ministries and other administrative authorities which have major responsibilities in implementing the Association Agreement;
57. The decrease in the dependence of the public institutions on political factors, by means of institutional and functional development of the public authorities;

CONSUMER PROTECTION

58. Continue the development and enforcement of risk-based management, analysis and control procedures, including by means of approving the Methodology of state control planning for the areas of consumer protection and market surveillance of non-food products;

PUBLIC FINANCE MANAGEMENT: BUDGETARY POLICY

59. Avoidance of cases of approving program (for instance Good roads for Moldova) without complete coverage with financial resources, approved in the State budget;
60. Strict control of public procurement procedures and of the quality of performed works that refer to investments in infrastructure;
61. Coordination of investments in infrastructure to assure an efficient and multidimensional approach to public resources, available for different areas of regional development;
62. Respect good EU practices and the domestic framework on public finance management. During the reporting budget year, one cannot affect decisions which lead to the increase in budget expenses, if their financial impact had not been foreseen in the budget;
63. Establishment of a public investments program. Its development shall permit establishing priorities and shall encourage efficient investments;



TAX ISSUES

64. The practice of legislating tax amnesties should be eliminated. Such approaches seldom reach the objective of giving an impetus to the business environment or to encourage, in the future, the taxpayers to pay their taxes, but on the contrary, they bear a major risk of negative social impact and contribute to fiscal noncompliance;
65. Focus on actions that would assure fair and efficient tax collection from the taxpayers;

AGRICULTURE AND RURAL DEVELOPMENT

66. Speeding up the process of making up for the backlogs in the transposition of the EU directives aimed at adjusting domestic norms to European standards, enhance product quality, protect consumer rights and increase exports;
67. Promoting of adjustments to the National agricultural and rural development strategy, considering the findings and recommendations of the mid-term evaluation report of the National agricultural and rural development strategy for 2014-2020 and the Action plan for Strategy implementation.

COOPERATION IN ENERGY SECTOR

68. Further consolidation of the independence of the Energy Regulator from political factor.
69. Deepening of reforms in the energy sector and keeping up of the integration process into the European energy market;
70. Advancement in the process of approving the acts set out in the plan: (i) the Law on minimal stocks of oil; (ii) Regulation on connections to the natural gas pipelines and provision of natural gas transmission and distribution services; (iii) Regulation on natural gas supply; (iv) Regulation on the connection to the electric grid and provision of electricity transmission and distribution services; and (v) Regulation on electricity supply.

REGIONAL DEVELOPMENT, CROSS-BORDER AND REGIONAL COOPERATION

71. As rapid as possible promotion of the mechanism of inter-ministry and inter-agency, as well as regional level coordination and cooperation to assure a synergy of public funds available in various areas relevant for regional development;
72. Revision of the mechanism of reporting on the project implementation, including by introducing the mandatory ex-post evaluation, as well as the mid-term evaluation of projects, funded from public funds, whose life is longer than one year;
73. Revision of the mechanism of managing resources of the National regional development facility, transferring these functions from the Ministry of Agriculture, Regional Development and Environment to a specialized Agency;

COOPERATION IN THE AREA OF TRANSPORT

74. More even planning and distribution of NAPIAA II actions in order to reduce the number of situations when the timeline is broken and an enhanced level of accomplishment of the planned measures;
75. Mainstreaming of environmental provisions in the transportation policy, to reduce traffic jams and environmental pollution;
76. Development of the domestic infrastructure, necessary for electronic vehicles;
77. Transposition of the Directive 2014/45/EU of the European Parliament and the Council on periodic technical inspection of the vehicles and their tows;
78. Engagement of local authorities in decision-making processes, in particular with regard to developing local infrastructure rehabilitation programs;



MEDIA

79. Speeding up of the publication of the Code of audio-visual media services of the Republic of Moldova, so that it enters into effect well in advance of the start of the election campaign for the parliamentary elections of 2019.
80. Assure true independence of the Coordinating Council of Broadcasters and public broadcasters supervisory boards, including by means of applying criteria for appointing members on the basis of their professionalism, not their political representation;
81. The Competition council to perform its task of efficient regulation, to investigate and exclude the publicity market monopoly on the basis of fair competition principles;

COOPERATION WITH THE CIVIL SOCIETY

82. Consolidation of the framework of cooperation between the national authorities and the civil society, with a view to monitoring and implementing the commitments, set out in the EU-Moldova Association Agreement.
83. Implementation of actions, that will contribute to the reinstatement of trust between the authorities and civil society organizations: (a) enhance transparency in policy design and decision making; (b) use of a number of channels to request the opinion of the civil society organizations; (c) manifest willingness of authentic public engagement in the development, monitoring and evaluation of the activities of the Government; (d) respect promises and establish a dialogue and ongoing information exchange between the authorities and the civil society.
84. Approval of the draft law on non-commercial organizations in the second reading, so that it ensures the capacity of the civil society organizations to operate independently and guarantee the freedom of speech, association and opinion.
85. Prevention and investigation of cases of attacks and intimidation of the civil society organizations.

1.3.4. TITLE V - TRADE AND TRADE RELATED ISSUES (DCFTA)

ACCESS TO THE GOODS MARKET

86. Finalization of the complex reviews of the normative framework, of production capacity and the potential to export to the EU market;
87. Priority implementation of actions which result from these analyses, which eliminate barriers to exports of products considered strategic and with enhanced potential of returns;
88. Negotiation and ratification of the Agreement on conformity assessment and acceptance of industrial products;
89. The Ministries and other central administration authorities shall undertake measures to optimize internal processes as a result of the central public administration reform, transferring implementation functions to Agencies and other authorities with implementation duties, as well as they shall promote the use of public resources to commission thematic analyses for those sectors of national economy which have enhanced potential for growth, including for exports to the EU;

SANITARY AND PHYTOSANITARY MEASURES

90. Continue the transposition of the sanitary and phytosanitary standards in the domestic legislation and assure efficient implementation of new standards;
91. Finalization of the process of reforming the National food safety agency, including its territorial offices;
92. Consolidation of the labs network and infrastructure, including by handing this activity over to private labs, verifying the compliance of the quality and process related requirements, in order to allow entrepreneurs scale up exports of products of animal and plant origin;
93. Implementation of sanitary standards for products of animal origin, including for products which are subject to tariff quotas (meat, eggs, milk and other products of animal origin);



94. Building the capacities of the National food safety agency in implementing and performing quality checks of the products of animal and plant origin, including from the perspective of the new sanitary and phytosanitary provisions, that had been approved;

THE RIGHT OF ESTABLISHMENT, TRADE IN SERVICES AND ELECTRONIC TRADE

95. Identification and removal of barriers to the right of establishment and to the cross-border provision of services. Consolidation of the ministries function of public policy analysis and identification of barriers to the right of establishment and services provision;
96. Setting intervention area priorities on the basis of analyses made for the right of establishment and provision of services, incorporating them in the NAPIAA II and/or in the institutional plans of activity;
97. Enforcement of the new provisions on accounting, financial reporting, audit of financial statements, banking and non-banking financial services, continuous raise of the professional standards and competences in the area of insurance services;
98. Efficient enforcement of the provisions of the Law on preventing and combating money laundering and terrorist financing, including by means of revising the normative framework which permits the use of intermediaries in the process of money laundering and terrorist financing;
99. Update of the normative framework that refers to the reuse of public sector information;

COMPETITION AND STATE AID

100. Market studies performed for the areas of publicity, banking services, insurance, pharmaceutical products, wheat, must be used should there be any suspicion of cartel arrangements or misuse, including coordinated dominant position, in order to initiate investigations into the respective markets;
101. Building capacities of the Competition Council for conducting investigations into strategic sectors of the national economy;
102. Continue aligning state aid schemes to domestic regulatory requirements, as well as undertake actions to recover unlawful state aid;

1.3.5. TITLE VI - FINANCIAL ASSISTANCE, ANTI-FRAUD AND CONTROL PROVISIONS

FOREIGN AID COORDINATION

103. Speeding up of the drafting of the Operational guidelines on foreign aid coordination and management;
104. Inform development partners and civil society organizations of the new rules of operation and administration of the Foreign aid management platform (AMP) - <http://amp.gov.md/portal/>;
105. Speeding up of the publication of the annual report on foreign aid coordination for the Republic of Moldova;

EU DIRECT BUDGET SUPPORT

106. In spite of the postponement of the budget support disbursements, the Government must continue implementing the provisions of the policy matrices of the EU budget support programs for the Republic of Moldova in order to preempt the complete cancellation of the EU budget support, as was the case with the justice reform support program.

EU MACRO-FINANCIAL ASSISTANCE

107. Address the grave shortcomings related to the functioning of the democratic institutions and rule of law, which were at the heart of the decision to suspend the EU macro-financial assistance.
108. Speed up the fulfilment of the 28 conditions for obtaining the EU macro-financial assistance;



109. Launch the consultations between the Government of the Republic of Moldova, the European Commission, the European Parliament and EU member states on the possibility of revising the Memorandum of Understanding and the Grant and loan agreements on EU macro-financial assistance. However, we must admit that the revision of the Agreements and the Memorandum of Understanding is unlikely because of the current spirit of the political dialogue between the EU and Moldova. Yet, at least the engagement in this process could maintain the pressure on the current government to most urgently remedy the issues related to the functioning of the democratic institutions in Moldova;
110. In this connection, the objectives of the parties could be as follows:
- a) The objective of the Government of the Republic of Moldova could be to negotiate the extension of the deadline for the use of the macro-financial assistance by one year, until the end of 2019.
 - b) The objective of the EU institutions could be to maintain the pressure on the current government in Chisinau on realizing the reforms agenda. In this regard, the EU could request the introduction of new conditions for providing the macro-financial assistance that would refer, in particular, to the following: (i) organize free and fair parliamentary elections within the new election system; (ii) judiciary reform; (iii) control of high profile corruption; (iv) consolidation of the media independence and pluralism and (v) establishing of guarantees for the functioning and development of the civil society in the Republic of Moldova;

PREVENTION AND CONTROL OF FRAUDS WITH FOREIGN FUNDS

111. Complete the criminal investigation and transmit into criminal proceedings the cases concerning foreign funds misuse;

ENACTMENT OF THE LAW ON THE NATIONAL INTEGRITY AUTHORITY

112. Speed up the process of contracting integrity inspectors within the National Integrity Authority (NIA) and of filling in the 42 vacancies;
113. Draft and approve the NIA institutional development strategy;

ENACTMENT OF THE LAW ON THE ASSET RECOVERY AGENCY

114. Implementation of the Regulation on the evaluation, administration and valuation of crime assets (seized);
115. Approval and implementation of normative acts on the cooperation between the institutions with domestic duties for crime assets recovery;



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