



**5th meeting, Brussels, 23 May 2019
JOINT DECLARATION
(DRAFT)**

The EU-Moldova Civil Society Platform¹ (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 organisations from both sides to monitor the implementation process and prepare its recommendations to the relevant authorities as well as endorse declarations outlining progress made and addressing issues of concern.

The fifth meeting of the CSP was held on 23 May 2019 in Brussels. The members of the CSP discussed the state of play regarding the implementation of the Association Agreement, and focused attention in particular on the state of democracy, public integrity, and the rule of law in the Republic of Moldova.

While to date the Parliament leadership and a new Government failed to be appointed following the February 24th, 2019 elections, the CSP members call on the Parliament to speed-up the process of electing all parliamentary structures, appoint a new Government in line with the Constitutional provisions and recommend Moldovan authorities to address the following priority policy measures on elections, justice, anticorruption, transparency in decision-making, mass-media and civil society in order to:

- 1. review and amend the Electoral Code, including cancellation of the mixed electoral system.** On 20 July 2017, the Moldovan Parliament voted to change the proportional system for parliamentary elections with a mixed voting (parallel) system. This modification took place despite the recommendation of the Venice Commission and EU institutions to refrain from changing the electoral system without having a broad national consensus on this issue and to ensure a multi-party system. The parliamentary elections that took place in February 2019 confirmed the concerns expressed by international institutions and local CSOs;
- 2. reduce the threshold for donations to political parties** and allow donations from Moldovan citizens from abroad. Under the current law, the yearly threshold for donations from individuals and legal entities shall constitute 200 and 400 nationwide average monthly salaries (USD 70,000 and USD 140,000 respectively). For the poorest nation in Europe this threshold is very high. The experts recommended the reduction of the threshold for donations to political parties. GRECO recommended a couple of years ago to reduce it by at least 10 times;
- 3. abolish the initial 5-year term of appointment of judges and change the composition of the Supreme Council of Magistracy (SCM).** The initial appointment of judges for a short time mandate should be excluded, as recommended by the Council of Europe and International Commission of Jurists (ICJ). The

¹ <https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-moldova-civil-society-platform/events>

judges should be appointed until the age-limit from the very beginning. If they do not comply with their tasks or misbehave, they should be dismissed in a due time;

4. **ensure the merit-based selection and promotion of judges.** According to a Legal Resources Centre from Moldova' report², in 2013-2017, most of the SCM decisions on selection and promotion of judges (6 out of 10 judges) were not based on merits. SCM generally disregarded the results of the contests and appointed/promoted lower-scored candidates. In 2018, the legislation was amended to limit the discretion of the SCM in selecting and promoting judges and to bring more transparency into the process;
5. **increase the transparency of the judiciary.** The insufficient transparency of the judiciary is one of the reasons for reduced public trust in courts. The SCM is taking their decisions and holds its most important discussions behind closed doors and their decisions are not convincingly motivated. At the same time, without any meaningful justification, the key high profile cases were heard in the courts in closed hearings (Filat, Platon, Shor);
6. **narrow the mandate of the Anticorruption Prosecution Office (APO)** so that it covers exclusively the fight with high-level corruption thus allowing APO prosecutors to focus on the cases of high-level corruption. In Moldova corruption cannot effectively be reduced without prioritizing the fight against high-level corruption. APO was created to investigate high-level corruption cases. In practice, however, a substantial part of its efforts are directed towards dealing (leading investigation) with petty corruption cases, investigated by the National Anticorruption Cases (NAC). According to [official statistics](#), out of 1,171 cases dealt with by APO in 2017, 722 (62%) were petty corruption cases,;
7. **exclude the integrity certificates for candidates in elections.** In 2017, the Electoral Code was amended, introducing the requirement for candidates in elections to obtain a clean integrity certificate. This certificate contains the data about the previous convictions or decisions to ban a person to hold public positions. It is issued by the National Integrity Authority (NIA), the agency in charge of verification of asset declarations of the public servants. In a genuine democracy, it is not for executive to ban a candidate to run in elections. This should be a sanction imposed by a court or by another agency acting like a court (such as NIA). The integrity certificate, as provided by the current Moldovan legislation, does not bring any added value to the fight against corruption. During a pre-electoral period of November 2018 - January 2019, NIA issued 1,595 integrity certificates for the potential candidates in the February 2019 parliamentary elections. NIA has no access to the required information, thus it requests the information separately for each person for each category from different institutions;
8. **improve the transparency of the legislative process in the Parliament** in order to allow adequate public scrutiny of its activity.. The Republic of Moldova has a rather transparent system of elaboration of laws at the level of the Executive. A number of controversial bills have been promoted by the MPs in a rush procedure, including the one concerning the trade of fuel in duty-free shops, the Law on capital amnesty and the investment-citizenship legislation.
9. **adopt in the final reading the new Law on advertising** without major amendments. Advertising is one of the most important sources of revenue for independent media outlets. A new draft Law on advertising was elaborated by independent experts and was adopted by the Parliament in the first reading on 11

² <https://crjm.org/wp-content/uploads/2017/12/CRJM-Selectia-si-cariera-jud-2017-ENG.pdf>

October 2018. The new Parliament has to adopt the new Law on advertising without major amendments. 52 votes in the Parliament are required to vote the bill in the final reading.

10. **adopt in the final reading the new Law on non-commercial organizations, without amendments that could shrink space for civil society.** The draft law was adopted by the Parliament in May 2018. The bill is in line with the best international standards and practices, limits the possibility of the state to interfere in the affairs of the NGOs and create preconditions for a sustainable development of the NGO sector. It also clearly regulates the interaction between the NGOs and political parties and restricts the possibilities of abusive closure of NGOs.
11. **adopt pending amendments to the law on ensuring equality** in order to strengthen the institutional mandate of the Equality Council with regards to application of sanctions, staff and the right to address complaints and requests to the Constitutional Court.

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

12. take note of the 2018 Report on the implementation of the Association Agreement drafted by the government of the Republic of Moldova³, the independent evaluations conducted by the Moldovan CSOs⁴, and the European Parliament Resolution on the implementation of the EU Association Agreement with the Republic of Moldova⁵;
13. regret that there have been no major developments, with **reduced progress in the implementation of the Association Agreement** since the last meeting of the EU – Moldova CSP⁶. There has been attested a qualitative decline of the political dialogue since the suspension of the EU's financial assistance due to democratic backsliding within the rule of law and judicial system. The reforms have been largely tackling secondary elements that are important but do not bring about fundamental changes, thereby having only a marginal impact on the internal transformation;
14. reiterate the need for a solid financing of the Moldovan side of the Platform by the Government of the Republic of Moldova in order to avoid unnecessary logistical burden in preparation of different meetings, and, more importantly, to grant Moldovan civil society the support it deserves from its own Government;
15. urge the Moldovan authorities to **intensify the investigation of the banking fraud** according to the commitments mentioned in the strategy for the recovery of financial assets, as in 2018 there was no visible progress in the investigation of the banking fraud. The investigations and prosecution against all those involved in banking fraud have still not been brought to a conclusion. The case of Ilan Shor who has been sentenced in the first level court but still made it to the Moldovan parliament is vivid evidence of that.
16. recall that the Civic Coalition for Free and Fair Elections evaluated⁷ the parliamentary elections of 24 February 2019 to be unfair and partially free, noting multiple Election Code violations such as: wide

³Annual Report on the implementation of NAPPIAA 2017-2019, MFAEI, <http://www.mfa.gov.md/img/docs/Raport-impl-PNAAA-2017-2019-an-2018.pdf>.

⁴ 4th Shadow Report on the implementation of the Association Agreement, IPRE, <http://ipre.md/2019/03/12/7874/?lang=en>

⁵ European Parliament Resolution on the implementation of the EU Association Agreement with Moldova, 14 November 2018, http://www.europarl.europa.eu/doceo/document/TA-8-2018-0458_EN.html

⁶ https://www.eesc.europa.eu/sites/default/files/files/joint_declaration_0.pdf.

⁷ http://eef.md/media/files/files/civic-coalition-declaration-bef-2019-parl-elections_5025205.pdf

spread use of administrative resources, intimidation of candidates and CSOs monitoring the election process, corruption of voters. The fairness of the elections was undermined by politically controlled mass-media, limitation of the right to vote and appeals of Moldovan citizens living abroad and the fact that women, young people, people with disabilities and Roma people continue to be under-represented.

17. note the **lack of progress in the financial assistance area** as a result of the decision of the EU to suspend the macro-financial assistance and direct budget support. Welcome the European Commission decision to adjust the financial assistance to the Republic of Moldova and relocate it towards supporting projects which will have a direct and positive impact on the citizens of the Republic of Moldova, including civil society, independent media, responsible local authorities and the SMEs;
18. acknowledge the **significant progress achieved in terms of bilateral trade** with the EU thanks to the AA/DCFTA, whereas approx. 70% of all Moldovan goods are exported on the EU market. However, much remains to be done as we observe that there are untapped opportunities. In this regard, we recommend a thorough assessment of the tariff quotas, anti-circumvention and entry price policies on the EU's side in order to ease the conditions of Moldovan exporters;
19. note the **positive trends in aligning the EU's quality infrastructure** as per the commitments under the AA/DCFTA, whereas 87% of European standards are mirrored in the national standards body. However, their implementation is facing difficulties due to delayed adoption of the secondary legislation and the professionalization of the staff in the state ministries and agencies. In additions, environmental technical regulations require highest attention;
20. express the stringent **need to emphasize in EU's business-oriented projects** the component of knowledge building about the benefits of operating with EU standards and technical regulations. The business-to-state agencies dialogue still needs more articulation and stronger interaction in the field of standardization, in particular when it comes to the withdrawing of the GOST standards.
21. urge the EU, along with the development partners, to **assess the implementation of the sanitary and phytosanitary strategy by the Moldovan authorities**, and draft actions in order to strengthen the institutional capacity and policy enforcing in areas that are of vital importance for the country's food production and export potentials, such as dairy and poultry production.
22. reiterate the need to review the impact and **cancel the initiative "citizenship for investments"**, launched in 2018, because it contradicts with the declared efforts of fighting money laundering. Moreover, the procedure of offering citizenship is completely opaque, excluding any resort of supervision and prevention of citizenships issued to individuals involved in corrupt or other illegal actions in foreign jurisdictions.
23. recall the necessity to **strengthen the political independence and professionalization of the administrative body of the energy regulator** by improving the procedures of appointment. In parallel, underline the vitality of the 'unbundling process' in the gas sector, which should be materialized together with gas interconnection with Romania;
24. welcome the start of the constructions of the natural gas pipeline Ungheni-Chisinau and call on the Moldovan Government to ensure that the contract obligations of *Transgaz* Romania are executed to ensure that the new pipeline is operational by 2020;

25. urge the EU to work together with the Energy Community, and the Member States, to **solve the negative implications that crypto-currency production in Transnistrian region** has on gas debts that Moldovan gas operator (MoldovaGaz) owes to Gazprom, accounting for more than USD 6 billion of which more than 90% belongs to the Transnistrian region.

With regard to the public integrity in Moldova, the CSP members:

26. recall the Law on the National Integrity Authority and the Law on Disclosure of Assets and Conflict of Interest by Public Officials passed in 2016 by the Parliament of Moldova;
27. believe that a strong encouragement should be given to those involved in political and institutional processes in the Republic of Moldova in order to make visible progress in implementing real measures to ensure public integrity;
28. underline that such progress cannot be conceived as a uniform process of institutional design, but rather as a gradual attainment of institutional performance or governance standards that can only be achieved through tailor-made national strategies;
29. point out that such strategies involve real and sustained involvement of all social and civic actors, of democratic civil society organizations in all stages of the process from consultation to implementation;
30. recommend promotion of a whole-of-society culture of public integrity, partnering with civil society and individuals, and respecting public integrity values in their interactions with the public sector, in particular by encouraging all sectors of the society to uphold those values as a shared responsibility;
31. underline the need to raise awareness of the benefits of public integrity and to reduce tolerance of violations of public integrity standards;
32. encourage transparency and stakeholders' engagement at all stages of the political process and policy cycle to promote accountability and the public interest, in particular through granting all stakeholders – including civil society and individuals – access in the development and implementation of public policies;

On the occasion of the 5th anniversary of the visa-free travel regime with the EU the CSP:

33. Note the **positive impact of the visa-free travel regime** with the EU and thus welcome that over 2.1 million Moldovan citizens travelled to the EU without visas⁸.
34. Note that the Republic of Moldova continues to **generally respect the requirement for visa-free travel to the EU**. The cooperation on readmission and return with Moldova is functioning well and should be continued^{9,10}.

⁸ the majority of the travellers are young people (26-35 years) – 502,609 persons and more senior members of the Moldovan society (46+ years) – 462,588 persons, followed by middle-aged persons (36-46 years) – 364.032 persons and children under the age of 17 years – 363.960 persons .

⁹ According to FRONTEX data, the number of refusal entries to the EU is low, registering a rate of 0.3% while the figures for illegal stay were about 0.5%⁹. The number of Moldovan asylum seekers remained low (i.e. 1,610 applications in 2018) and asylum recognition rate stayed in the range of 1.35% in 2017

¹⁰ Ibid.

35. in the light of the European Commission 2018 Report on the Visa Suspension Mechanism, urge the Moldovan Government to **take actions to effectively implement the Law on the Prevention and Fight Against Money Laundering**, including the declaration of wealth and interests, the fight against corruption and the effective recovery of proceeds of crime, and to review the conditions of tax incentives and the "citizenship through investment" introduced in 2018.

Concerning the Transboundary Water Management of the Dniester River, Members of the CSP:

36. **reiterate the importance of protection and sustainable development of water resources** in the Dniester River Basin in order to ensure the functioning of ecosystems and fair access to qualitative water in sufficient volume for all water users in the basin;
37. welcome the **establishment and operation of the bilateral Moldovan-Ukrainian Commission** on the protection and sustainable use of the Dniester River as an important tool for implementing the principles of water resource management promoted by the EU Framework Directive. It is needed to strengthen the capacities of the bilateral Moldovan-Ukrainian Commission and take into account the recommendations adopted in its meetings;
38. call on the authorities of the Republic of Moldova to request the Ukrainian authorities to **comply with the provisions of the Convention on Environmental Impact Assessment** (Espoo Convention) for the planned extension of the Dnestrovsk hydropower complex with three more turbines;
39. call on the authorities of the Republic of Moldova to **provide all the assistance and information available for the elaboration of the social and environmental impact assessment study** currently carried out by the UNDP Moldova project with the financial support of the Swedish Government;
40. appeal to the authorities of the Republic of Moldova to **postpone the negotiations on the Agreement on Ensuring the Operation of the Dnestrovsk Hydropower Complex** with the Cabinet of Ministers of Ukraine until the completion of the Social and Environmental Impact Assessment Study currently being carried out by UNDP Moldova with the support of the Swedish Government¹¹;
41. call on the authorities of the Republic of Moldova to take into account, during the negotiation process of the above-mentioned Agreement, of the relevant EU legislation mentioned in the MD-EU and UA-EU Association Agreements, including the Energy Community Treaty and the relevant EU environmental Directives to **adjust the needs of the Dniester ecosystem, minimizing the negative impact of hydropower plant on water** (simulating natural water evacuation, establishing a minimum discharge level throughout the year, etc.);
42. insist on the inclusion in the Dnestrovsk Hydropower Complex Agreement of the internationally recognized core principles in the field of cross-border water cooperation, including the polluter pays principle, the equal access of water users to water resources and the use of cross-border waters in a sustainable, reasonable and equitable manner;

¹¹ The project started in September 2018 and will be finalized in December 2019

43. appeal on the authorities of the Republic of Moldova to strengthen all the efforts, including financial ones, in order to **eliminate sources of pollution of Dniester river** situated on the Moldovan territory, through the construction of wastewater treatment plants for Soroca, Rezina and Criuleni towns.

On trade unions, the CSP members recommend:

44. observing the provisions of art. 371 of the EU-Moldova Association Agreement in the process of drafting and improving the labour legislation and in other areas, according to which the parties recognize that it is **inappropriate to encourage trade or investments by reducing the levels of protection** provided by the national legislation on the environment or labour.
45. **amending the state control law** over entrepreneurial activity no. 131 of 8 June 2012 and of Law on the State Labour Inspectorate with the provisions of the International Labour Organization conventions no. 81 on labour inspection in industry and trade and no. 129 on labour inspection in agriculture.
46. developing a national programme in the field of safety and health at work and an action Plan on its implementation.
47. developing and adopting a **National Strategy to combat the phenomenon of “black work” and wage payment “in the envelope”**, the control of which should be carried out at the level of the Prime Minister.

On Employers associations, the CSP members recommend:

48. **implementing efficient measures of counteraction of abuse and trading** in the influence that impeded considerably the development of the national economy by prevention and sanctioning active and passive corruption;
49. transposing of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on **public procurement** and repealing Directive 2004/18/EC;
50. **ensuring fair competition between private and public enterprises** via fare tax policy that does not privilege any of the economic agents;
51. **refinancing and restructuring the foreign currency loans and liabilities** of economic agents and the population at the expense of the National Bank resources with the provision of the opportunity for them to repay foreign currency loans at the exchange rate of the MDL at the time of the loan initiation;
52. **providing sanctions on speculative and questionable currency transactions** by creation of a “Currency Board” with the active participation of representatives of civil society, including the business community of the Republic of Moldova;
53. developing and implementing a **transparent and fair public procurement system**, including via an operational and accessible instrument. A new deadline for entering into force (1 January 2021) is established for a number of articles related to the use of SIA RSAP (MTender) and electronic means for the procurement of medicinal products and medical devices by the central procurement authority.

54. **promoting ICT tools in the field of health care**, including the adoption of an eHealth strategy addressing the regulation of telemedicine services, the integrated information systems for all healthcare providers, the electronic patient registration system (EPR).

55. **improving governance and management of health funds** and allocate funding by developing and collecting performance indicators and quality indicators for health service providers. Systematization and online access to data on national indicators based on a single information system.