“These books offer a one-stop guide to the Association Agreements—the authors have painstakingly analysed the incredibly complex Agreements to deliver a compact and accessible overview to all those who need to grasp their contents. The national teams also shed light on the salience of the content for domestic reforms. Even though the books are not meant to be read like a book, the reader who does so is rewarded with a panoramic overview of the sheer scale and ambition of the AA-DCFTA. The books offer a plethora of pivotal insights into the Agreements while at the same time raising a number of important questions. A ‘Bible.’”
— Kataryna Wolczuk, Centre for Russian, European and Eurasian Studies, University of Birmingham

The purpose of Deepening EU-Moldovan Relations is to make the complex political, economic, and legal content of the Association Agreement readily understandable. This third edition, published seven years since the Agreement’s implementation is substantially new in content, both updating how Moldova has been enacting the Agreement, and introducing new dimensions (including the Green Deal, the COVID-19 pandemic, cyber security, and gender equality). The Handbook is also up to date in analysing Moldova’s dramatic political swings between the recent pro-Russian and new pro-European presidencies.

For Moldova, the signing of the Association Agreement and the DCFTA with the European Union in 2014 was an act of strategic geopolitical significance. Of all the EU’s eastern neighbours, Moldova is objectively the most European on several counts, including sharing a common history, language, culture and border with EU member state Romania. These provide a positive foundation for a successful Agreement, notwithstanding the major political challenges that confront contemporary Moldova.

Two teams of researchers from leading independent think tanks, CEPS in Brussels and the Expert-Grup in Chişinău, collaborated on this project, with the support of the Swedish International Development Agency (Sida). This Handbook is one of a trilogy that examines similar Association Agreements made by the EU with Ukraine and Georgia.

MICHAEL EMERSON is Associate Senior Research Fellow at the Centre for European Policy Studies in Brussels.

DENIS CENUŞĂ is Associate Expert at the Expert-Grup think tank, Chişinău, Moldova.
Deepening
EU-Moldovan Relations
Deepening
EU–Moldovan Relations

Updating and upgrading in
the shadow of Covid-19

Third edition

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One of a trilogy of Handbooks explaining the EU’s Association Agreements
and DCFTAs with Georgia, Moldova and Ukraine

CEPS, Brussels
Expert-Grup, Chișinău
CONTENTS

Abbreviations........................................................................................................ viii
Preface....................................................................................................................... xii
Summary.................................................................................................................... 1
Part I. Political Principles, Rule of Law, and Foreign Policy .......... 14
  1. Political principles.............................................................................................. 15
  2. Rule of law and movement of people .............................................................. 27
  3. Foreign and security policy ............................................................................. 39
Part II. Deep and Comprehensive Free Trade Area.................. 45
  4. Market access for goods................................................................................... 47
  5. Trade remedies................................................................................................ 58
  6. Customs services............................................................................................... 61
  7. Technical standards for industrial goods ....................................................... 71
  8. Food safety regulations.................................................................................... 83
  9. Services............................................................................................................ 98
 10. Public procurement ......................................................................................... 111
 11. Intellectual property rights ........................................................................... 124
 12. Competition policy ........................................................................................ 136
 13. Statistics.......................................................................................................... 146
Part III. Economic Cooperation ....................................................... 151
  14. Macroeconomic context and financial assistance .......................... 152
  15. Financial services ......................................................................................... 160
  16. Transport........................................................................................................ 175
  17. Environment.................................................................................................... 188
  18. Energy............................................................................................................. 207
  19. Digital sector .................................................................................................. 222
  20. Cybersecurity and cyber defence ................................................................. 237
  21. Consumer protection ..................................................................................... 247
22. Company law ................................................................. 255
23. Agriculture ................................................................. 265
24. Employment and social policy ................................. 279
25. Gender policy and practice .................................. 290
26. Education, training and culture .......................... 303
27. Science and technology ........................................ 311
28. Public Health ............................................................. 318
29. EU agencies and programmes ............................... 330
30. Cross-border cooperation ...................................... 338
31. Civil society ............................................................... 343

Part IV. Legal and Institutional Provisions ......................... 349
32. Dispute settlement ......................................................... 350
33. Institutional provisions ............................................. 355

Boxes, Figures and Tables
Box 9.1 Summary of commitments and reservations of the EU and Moldova for services sectors ........................................ 104
Box 11.1 Timeline of steps taken by Moldova in acceding to IPR conventions and organisations ................................ 131
Box 15.1 The 2014 bank fraud ........................................... 168
Box 17.1 Basic features of the Moldovan environment ............. 196
Box 23.1 Summary of EU agricultural policy laws referred to in the Agreement ......................................................... 266
Box 23.2 ‘Technical Assistance for DCFTA Implementation’ .......... 267
Box 24.1 Relationship between EU employment, social directives and ILO conventions ........................................... 283
Box 29.1 EU agencies open to Ukraine, Moldova and Georgia*........ 330
Box 29.2 EU programmes open to Ukraine, Moldova and Georgia. 331
Box 30.1 Regions of Moldova, Romania and Ukraine participating in cross-border cooperation ..................................... 339
Box 30.2 Romania–Ukraine–Moldova cross-border projects, 2007–13 ................................................................. 341

Figure 8.1 The EU-Moldova SPS Strategy, numbers of legal acts ..... 84
Table A 1. Ratings of implementation by Moldova of main provisions of the Association Agreements and DCFTAs .................. 3
Table 4.1 Moldovan products subject to annual duty-free TRQs for import into the EU ................................................................. 48
Table 4.2 Trade turnover between Moldova and the EU ($ million) .. 51
Table 4.3 Exports of Moldova to the EU that increased and decreased the most ($ million) ...................................................... 52
Table 4.4 Moldova’s trade structure by country or region, 2013 and 2019 ............................................................................. 53
Table 4.5 Main EU imports from, and exports to, Moldova, 2019 ...... 54
Table 9.1 National treatment or MFN reservations to establishment. 99
Table 9.2 Market access and national treatment reservations for cross-border services* ......................................................... 101
Table 9.3 EU trade in services with Moldova, 2017-18 (€ million).....106
Table 10.1 Adjusted thresholds for the application of public procurement rules (as updated by the Trade Committee in 2016) ....112
Table 10.2 Adjusted indicative time schedule for approximation of public procurement rules .......................................................115
Table 14.1 Main economic indicators of Moldova .......................155
Table 14.2 EU budgetary assistance to Moldova, by sector, 2014–20 156
Table 19.1 Aspects of ICT development in Moldova, Georgia, Ukraine and Romania .................................................................228
Table 22.1 Overview of EU company law directives for approximation .......................................................................................256
Table 22.2 Progress with implementation of EU company law directives .....................................................................................262
Table 27.1 Main thematic priorities of Horizon 2020 ......................312
Table 27.2 Horizon 2020 data on proposals for Moldova, Ukraine and Georgia ........................................................................314
Table 33.1 Updates of the Association Agreement/Decisions of the Association Council or other joint committees .................358
# Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AA</td>
<td>Association Agreement</td>
</tr>
<tr>
<td>ACAA</td>
<td>Agreement on Conformity and Assessment and Acceptance of Industrial Products</td>
</tr>
<tr>
<td>AEO</td>
<td>Authorised Economic Operator</td>
</tr>
<tr>
<td>AmCham</td>
<td>American Chamber of Commerce</td>
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<tr>
<td>AML</td>
<td>Anti-money laundering</td>
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<td>ANRE</td>
<td>National Agency for Energy Regulation</td>
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<td>ANSA</td>
<td>National Agency for Food Safety</td>
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<tr>
<td>ATM</td>
<td>Autonomous trade measures</td>
</tr>
<tr>
<td>ATP</td>
<td>Autonomous trade preferences</td>
</tr>
<tr>
<td>AVMS</td>
<td>Audiovisual media services</td>
</tr>
<tr>
<td>BNM</td>
<td>National Bank of Moldova</td>
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<tr>
<td>CAA</td>
<td>Common Aviation Area Agreement</td>
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<td>CAP</td>
<td>Common Agricultural Policy</td>
</tr>
<tr>
<td>CCC</td>
<td>Community Customs Code</td>
</tr>
<tr>
<td>CE</td>
<td>Conformité Européenne</td>
</tr>
<tr>
<td>CEN</td>
<td>European Committee for Standardisation</td>
</tr>
<tr>
<td>CENELEC</td>
<td>European Committee for Electrotechnical Standardisation</td>
</tr>
<tr>
<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
</tr>
<tr>
<td>CIS</td>
<td>Commonwealth of Independent States</td>
</tr>
<tr>
<td>CJEU</td>
<td>Court of Justice of the European Union</td>
</tr>
<tr>
<td>CPM</td>
<td>Civil Protection Mechanism</td>
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<tr>
<td>CRS</td>
<td>Computer reservation system</td>
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<tr>
<td>CSDP</td>
<td>Common Security and Defence Policy</td>
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<tr>
<td>DCFTA</td>
<td>Deep and Comprehensive Free Trade Area</td>
</tr>
<tr>
<td>DO</td>
<td>Designation of origin</td>
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<td>DSM</td>
<td>Dispute settlement mechanism</td>
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<td>DSM</td>
<td>Digital Single Market</td>
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<td>EA</td>
<td>European co-operation for Accreditation</td>
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<tr>
<td>EaP</td>
<td>Eastern Partnership</td>
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</table>
EaPTC  Eastern Partnership Territorial Cooperation
EBRD  European Bank for Reconstruction and Development
ECDC  European Centre for Disease Prevention and Control
ECN  European Competition Network
ECtHR  European Court of Human Rights
ECTS  European credit transfer and accumulation system
EDA  European Defence Agency
EESC  European Economic and Social Committee
EFTA  European Free Trade Association
EIA  Environmental impact assessment
EIB  European Investment Bank
EIGE  European Institute for Gender Equality
EMIR  European market infrastructure regulation
ENISA  EU Agency for Cybersecurity
ENP  European Neighbourhood Policy
ENPARD  European Neighbourhood Programme for Agriculture and Rural Development
ENT  Economic needs test
ERA  European Research Area
ERC  European Research Council
ESMA  European Securities and Markets Authority
ESPD  European Single Procurement Document
ETS  Emissions trading system
ETSI  European Telecommunications Standards Institute
EU  European Union
EUBAM  European Union Border Assistance Mission
EUIPO  European Intellectual Property Office
EURAMET  European Association of National Metrology Institutes
FRONTEX  European Border and Coast Guard Agency
FTA  Free trade agreement
GATS  General Agreement on Trade in Services
GATT  General Agreement on Tariffs and Trade
GDPR  General Data Protection Regulation
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>GI</td>
<td>Geographical indication</td>
</tr>
<tr>
<td>GHG</td>
<td>Greenhouse gas</td>
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<tr>
<td>GMO</td>
<td>Genetically modified organism</td>
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<tr>
<td>GOST</td>
<td>Gosudarstvenny Standart (State Standard)</td>
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<tr>
<td>GPA</td>
<td>Government Procurement Agreement</td>
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<tr>
<td>GSB</td>
<td>Gender-sensitive budgeting</td>
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<td>GSP</td>
<td>Generalised System of Preferences</td>
</tr>
<tr>
<td>Hybrid CoE</td>
<td>European Centre of Excellence for Countering Hybrid Threats</td>
</tr>
<tr>
<td>ICT</td>
<td>Information and communication technology</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IPR</td>
<td>Intellectual property rights</td>
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<tr>
<td>ISO</td>
<td>International Organization for Standardization</td>
</tr>
<tr>
<td>MDL</td>
<td>Moldovan leu</td>
</tr>
<tr>
<td>MFA</td>
<td>Macro-financial assistance</td>
</tr>
<tr>
<td>MFF</td>
<td>Multiannual Financial Framework</td>
</tr>
<tr>
<td>MFN</td>
<td>Most favoured nation</td>
</tr>
<tr>
<td>MiFID</td>
<td>Markets in financial instruments</td>
</tr>
<tr>
<td>MOLDAC</td>
<td>National Institute of Metrology and the National Centre of Accreditation</td>
</tr>
<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>NAC</td>
<td>National Anti-corruption Centre</td>
</tr>
<tr>
<td>NAI</td>
<td>National Authority of Integrity</td>
</tr>
<tr>
<td>NBS</td>
<td>National Bureau of Statistics</td>
</tr>
<tr>
<td>NCFM</td>
<td>National Commission for Financial Markets</td>
</tr>
<tr>
<td>NCTS</td>
<td>New computerised transit system</td>
</tr>
<tr>
<td>NEET</td>
<td>Not in education, employment or training</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
</tr>
<tr>
<td>NIPS</td>
<td>National Intellectual Property Strategy</td>
</tr>
<tr>
<td>NIS</td>
<td>Network and information systems</td>
</tr>
<tr>
<td>ODIHR</td>
<td>Office for Democratic Institutions and Human Rights</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Cooperation and Development</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>---------</td>
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</tr>
<tr>
<td>OGP</td>
<td>Open Government Partnership</td>
</tr>
<tr>
<td>OLAF</td>
<td>European Anti-fraud Office</td>
</tr>
<tr>
<td>OSCE</td>
<td>Organization for Security and Cooperation in Europe</td>
</tr>
<tr>
<td>OTC</td>
<td>Over the counter</td>
</tr>
<tr>
<td>OTF</td>
<td>Organised trading facility</td>
</tr>
<tr>
<td>PEM</td>
<td>Pan-Euro-Mediterranean system of rules of origin</td>
</tr>
<tr>
<td>PISA</td>
<td>Programme for International Student Assessment</td>
</tr>
<tr>
<td>PLLC</td>
<td>Public limited liability company</td>
</tr>
<tr>
<td>SMEs</td>
<td>Small and medium-sized enterprises</td>
</tr>
<tr>
<td>SOE</td>
<td>State-owned enterprise</td>
</tr>
<tr>
<td>SPS</td>
<td>Sanitary and phytosanitary (food safety) regulations</td>
</tr>
<tr>
<td>TBT</td>
<td>Technical barriers to trade (industrial product standards)</td>
</tr>
<tr>
<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
</tr>
<tr>
<td>TRIPS</td>
<td>Agreement on Trade-Related Aspects of Intellectual Property Rights</td>
</tr>
<tr>
<td>TRQ</td>
<td>Tariff rate quota</td>
</tr>
<tr>
<td>UCC</td>
<td>Union Customs Code</td>
</tr>
<tr>
<td>UCITS</td>
<td>Undertakings for collective investment in transferable securities</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
<tr>
<td>VET</td>
<td>Vocational education and training</td>
</tr>
<tr>
<td>VLAP</td>
<td>Visa Liberalisation Action Plan</td>
</tr>
<tr>
<td>WIPO</td>
<td>World Intellectual Property Organization</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
</tbody>
</table>
This Handbook seeks to explain the contents of a long and complex legal treaty – the Association Agreement, which includes a Deep and Comprehensive Free Trade Area (DCFTA) – between the Republic of Moldova and the European Union (EU). Like most complex legal texts, it cannot be read like a book. Therefore, the purpose here is to make it possible for anyone to understand what each chapter of the Agreement means, in terms of both the nature of the commitments that the parties take on and the prospects for their implementation.

The first edition of this Handbook was published in 2016, updated by a second edition in 2018. This third 2021 edition moves way beyond explaining the Agreement, and how it is being progressively implemented. In particular, much of the EU’s legislation covered in the original agreement has been drastically revised, and supplemented by new legislation. In addition new or much enhanced policy domains have emerged, such as for public health (Covid-related), cyber security, gender and the emerging Green Deal. Also, there is much debate about forward-looking ideas. All these topics are now covered in this much revised third edition.

The Handbook has in mind a broad range of readers, including officials, parliamentarians, business leaders, lawyers, business consultants, think tanks, civil society organisations, university teachers, trainers, students and journalists.

The 30 chapters in this Handbook are mainly the same as those in the Agreement, but are not identical. Some chapters of lesser interest in the Agreement are not covered here, and there is some rearrangement of the various chapter headings.

The present Handbook is one of a trilogy that covers very similar but not identical agreements between the EU on the one hand, and Georgia, Moldova and Ukraine on the other. All three books are available electronically for free downloading in English
and the respective languages of the three countries at www.3dcftas.eu.

There are some references in the Handbook to an Association Agenda, which is a document drawn up jointly by Moldova and the EU, reviewing progress in implementing the Association Agreement, and which usefully provides updating and some greater detail on various topics. The Agreement and Agenda are thus not to be confused. The official texts of both documents are also available in English and Romanian at www.3dcftas.eu.

A much shorter version of the first edition of the book is available, with the aim of reaching a wider readership, including students. This version is also available online for free downloading in English, Romanian and Russian at www.3dcftas.eu. A second updated edition is forthcoming in 2021.

The Handbook has been prepared by two teams of researchers and experts, from CEPS in Brussels and Expert-Grup in Chișinău. Established in 1983, CEPS is a leading think tank on European affairs, with a strong in-house research capacity and an extensive network of partner institutes throughout the world. Its mission is to produce sound policy research leading to constructive solutions to the challenges facing Europe.

The Expert-Grup is an independent think tank, specialising in economic and policy research. Its core activities are economic analysis, forecasts and policy research.

While much of the content of the Handbook is undoubtedly rather dry, we hope that the reader will appreciate the lighter touch in the artwork of Constantin Sunnerberg, which graces the book’s cover and the introductory page of each chapter.

Thanks are due to Deborah Mulhearn and Margarita Minkova for their painstaking editorial and typesetting assistance.

Finally, the authors are most grateful to the Swedish International Development Agency (Sida) for their support and funding for the project, and in particular to Mirja Peterson and Maria Liungman for their encouragement from the beginning, and subsequently Sanna Leino and now Rolf Büchel.

The views expressed in this book are entirely those of the authors and should not be attributed to CEPS, Expert-Grup, Sida or the European Union.
SUMMARY

Moldova signed its Association Agreement (AA), including the Deep and Comprehensive Free Trade Area (DCFTA), with the European Union (EU) in 2014. Seven years on, it is time for a wider-ranging evaluation of what the AA has achieved, and how it is shaping up in the face of new and evolving challenges.

These have been troubled years, with much political and governmental instability. There have been three main political currents at work, namely the Democrat party of the now-fugitive oligarch, Vladimir Plahotniuc, the Socialist party of the openly pro-Russian former President Igor Dodon, and the reformist pro-European parties, now led by President Maia Sandu. Neither Plahotniuc nor Dodon was seriously interested in democratic reforms, and they fostered high levels of corruption, aided by political influence over the courts.

The election of Sandu at the end of 2020 signals popular support for an ambitious reformist agenda. But reforms will only be possible if the results of the parliamentary elections anticipated at some point in 2021 give Sandu the majority she needs to implement them.

However, even the pro-Russian Dodon never stopped the implementation of the AA/DCFTA, which indicates how deeply embedded the Europeanisation process is in Moldova’s political and economic realities.
Implementation of the agreement

First, there is a quite straightforward and positive overarching aspect. The institutional and procedural functioning of the Agreement has been satisfactory. The high-level meetings of the Association Council and its committees and sub-committees have managed the process in an orderly and cooperative manner, despite the 2019 and 2020 calendars being somewhat affected by the political instability and democratic backsliding, and the travel limitations caused by the Covid-19 pandemic. There have been no economic disputes requiring activation of the Agreement’s dispute settlement mechanisms (DSMs).

The Agreement is currently being updated, in particular the voluminous annexes that list the EU directives and regulations that Moldova has committed to implementing. EU law is constantly evolving, and the updating provisions have to be activated if the Agreement and DCFTA are not to become obsolete.

We use a specific methodology for evaluating the implementation of all the main chapters of the Agreement and its DCFTA. This appears in Table A, which, apart from summary comments on each chapter, contains numerical ratings in the range of 1 to 3. This follows the practice of the Commission in its assessment of how well the Balkan states are faring in their implementation of the same chapters in the context of their bids to accede to the EU. Broadly speaking, a mark of 3 signifies good implementation, and 2 signifies moderate degrees of implementation, or a reasonable state of work in progress where there are still time lags for implementation. Rating 1 signifies only ‘some’ progress in implementation, and 0 means no progress. Of the 26 chapters listed in Table A 1, which cover all the most significant chapters in the Agreement, the score card is:

Rating 3: 0 chapters
Rating 2.5: 4 chapters
Rating 2: 11 chapters
Rating 1.5: 9 chapters
Rating 1: 2 chapters
This shows that the majority of chapters are being moderately well implemented or have reasonably positive work in progress. A few chapters are more highly rated, but others that are less well-rated call for serious improvement. However, these simple summary numbers do not reflect the different possible weightings in the relative importance of different chapters, to which the next paragraphs are addressed.

*Table A 1. Ratings of implementation by Moldova of main provisions of the Association Agreements and DCFTAs*

<table>
<thead>
<tr>
<th>Political principles, rule of law</th>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electoral democracy</td>
<td>2</td>
<td>Improving, after years of instability and oligarchical power</td>
</tr>
<tr>
<td>Human rights</td>
<td>2</td>
<td>Some discrimination of minorities; problems in Transnistria</td>
</tr>
<tr>
<td>Rule of law</td>
<td>1.5</td>
<td>Politically corrupt judiciary, needed reform</td>
</tr>
<tr>
<td>Anti-corruption</td>
<td>1</td>
<td>Poor record so far, but priority for new president</td>
</tr>
</tbody>
</table>

**DCFTA**

<p>| Market access                     | 2      | Industrial products tariff free; agri-food tariff quotas remain |
| Customs services                  | 2      | Progressing, but still outdated infrastructure and corruption |
| Technical product standards (TBT) | 2.5    | Comprehensive adoption of EU standards |
| Food safety (SPS)                 | 1.5    | Comprehensive SPS strategy, but institutional weaknesses |
| Services                          | 2      | Liberal regime for imports and rights of establishment |
| Public procurement                | 2      | Significant progress in modernising system on EU lines |
| Intellectual property rights (IPR)| 1.5    | Legal framework mostly in place, but enforcement still weak |
| Competition policy                | 1.5    | Competition Council needs enhanced enforcement capacity |
| Statistics                        | 2      | Progressive implementation of EU practice |</p>
<table>
<thead>
<tr>
<th>Economic cooperation</th>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Macroeconomic policy</td>
<td>1.5</td>
<td>Vulnerable to shocks, dependence on IMF/EU loans</td>
</tr>
<tr>
<td>Financial services</td>
<td>2</td>
<td>Still shadow of 2014 banking fraud, no funds recovered</td>
</tr>
<tr>
<td>Transport</td>
<td>1.5</td>
<td>Civil aviation advances; road haulage problem with the EU</td>
</tr>
<tr>
<td>Energy</td>
<td>2</td>
<td>Gas and electricity connections with Romania advance</td>
</tr>
<tr>
<td>Environment</td>
<td>1.5</td>
<td>Heavy commitments, adverse climate change impacts</td>
</tr>
<tr>
<td>Digital and cyber</td>
<td>2</td>
<td>Fast growing sector, e-government progressing; weak cyber</td>
</tr>
<tr>
<td>Consumer protection</td>
<td>1</td>
<td>Consumer rights frequently neglected</td>
</tr>
<tr>
<td>Company law</td>
<td>1.5</td>
<td>Reforms in progress, with delays</td>
</tr>
<tr>
<td>Employment and social policy</td>
<td>2</td>
<td>Approximation mostly done, Covid impacts very severe</td>
</tr>
<tr>
<td>Visa regime, movement of people</td>
<td>1.5</td>
<td>Visa-free regime widely used; spikes in fake asylum requests</td>
</tr>
<tr>
<td>Education and culture</td>
<td>2.5</td>
<td>Schooling standards favourable, but education reset needed</td>
</tr>
<tr>
<td>Gender equality</td>
<td>2.5</td>
<td>Positive rating, boosted by new female prime minister</td>
</tr>
<tr>
<td>Civil society</td>
<td>2.5</td>
<td>Active in holding government to account</td>
</tr>
</tbody>
</table>

Note: ratings follow the methodology that the European Commission uses in its annual evaluation of the Balkan states, where 3 is a good rating in preparedness in relation to EU standards, 2 indicates moderate preparation, and 1 some preparation.


**Political and legal aspects**

This covers fundamental aspects of democratic processes, human rights and the rule of law, including the curbing of corruption, i.e. the essence of the EU’s political values.

Since mid-2019 there have been major political developments in two stages. At the 2019 parliamentary elections Plahotniuc’s party and supporters attempted to manipulate the results so
blatantly that an opportunistic coalition was formed by the pro-Russian and pro-European parties, with the support of the EU, US and Russian ambassadors, which pushed Plahotniuc into exile (initially in the US and lately in Turkey). However, the new coalition government, with Maia Sandu as prime minister, lasted only about six months, failing as it did to gain majority support in the parliament over a proposed law to empower the prime minister to appoint the general prosecutor.

The action then shifted to the presidential election, where Sandu scored an outright victory against the incumbent Dodon. However, the powers of the president are constitutionally weak, and for the reformist agenda of the pro-European forces to advance they have to secure a supportive parliament. This in turn requires fresh elections, which at the time of writing may take well into 2021.

There had already been progress in electoral system reform in 2019, with a reversion to proportional representation after changes introduced in 2017 with a ‘mixed’ (proportional and unicameral) voting system were cancelled. The recent presidential election was itself considered by observers to have been largely free and fair, unlike the 2018 election to the mayorality of Chişinău, where the result was invalidated by the politically corrupt courts.

The problem of endemic corruption is still to be tackled, but this is highest on the list of priorities for the new president. The chances of getting a seriously reformist government into place remain uncertain and depends on the outcome of political dialogue between the parties, in respect of the jurisprudence of the Constitutional Court, in the course of 2021.

**DCFTA and economic cooperation**

Trade liberalisation by the EU towards Moldova began in 2008 with the introduction of ‘autonomous trade preferences’ (ATPs), amplified by further measures in 2013 and 2014 in favour of wine and fresh fruits, before the entry into force of the DCFTA. With the DCFTA, tariffs on industrial products were immediately scrapped by the EU, and, after the transitional period of up to five years, by Moldova as well. Trade restrictions remain for agricultural produce, with tariff quotas and an anti-circumvention mechanism on the EU side, with Moldova liberalising food imports over long transitional
periods of up to 10 years. In 2019-20 it was agreed that the level of tariff quotas for some agricultural products be lifted.

The agreement reached in 2016 for some basic DCFTA measures to also apply to the Transnistria region is being implemented.

Numerous trade-facilitating measures mean that significant progress is being made in customs services. Serious challenges remain, however, with outdated infrastructures and still-widespread perceptions of corruption.

As regards the main non-tariff barriers, Moldova is engaged in a comprehensive programme to improve the quality infrastructure and market surveillance for industrial products. In 2020, the relevant annex to the Agreement was updated to take into account new EU directives. By the end of 2019 all 26,838 standards set by the European standards organisations (CEN, CENELEC) had become Moldovan national standards, and withdrawal of conflicting GOST standards is ongoing. Preparatory work is underway for an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA) with the EU; this is an ambitious arrangement for eliminating technical trading barriers that would cover 11 sectors and product categories initially.

For agri-food products, a comprehensive strategy was adopted for sanitary and phytosanitary regulations (SPS) in 2016, with a multi-year time horizon for implementation. This is of crucial importance for enabling an expansion of exports to the EU, especially for animal products. There are institutional weaknesses to be overcome, including for laboratories, and for the establishment of an effective traceability mechanism and so forth.

Regarding intellectual property rights (IPR), the legal framework is mostly in line with international rules and those of the EU, but these rules need updating, and institutional capacities need to be enhanced to ensure better enforcement. Similarly, the legislation needs further reform for competition policy, and the institutional capabilities of the Competition Council need strengthening.

For services, Moldova has adopted a very liberal approach to the import of services and right of establishment of service providers and related professions. The EU and its member states are
far more restrictive. The regulatory regimes for major service sectors entail important commitments to approximate EU law.

For financial services there is still the dark shadow of the huge banking fraud of 2014, with no funds yet recovered or perpetrators convicted. However, the approximation of EU regulatory laws made some progress, particularly in terms of transparency of shareholders and internal governance.

The main branches of the transport sector for connections with the EU are by air and road. There is a functioning Common Aviation Area (CAA) agreement, with related legislative improvements through the air code. Air connections have developed. For road freight there is a backlog of regulatory approximation, and EU member states are responsible for a highly complex and insufficient system of bilateral licensing on the Moldovan carriers’ side. Nevertheless, major problems remain in the governance of transport-related enterprises and state agencies.

In the energy sector, investments in gas and electricity connections with Romania open prospects of competition and diversification of supplies, eroding the incumbent monopoly position of Gazprom in the Moldovan market. Approximation of EU regulatory practice has advanced at the level of primary legislation, but more needs to be done at the secondary implementation level, notably regarding the quality of market supervision and effective unbundling in the gas and energy sectors.

The commitments in the Agreement for environmental policy reform and development, with extensive approximation of EU regulatory practice, are very ambitious for Moldova. Complex institutional reforms are required. Legislative approximation advances, but with delays. Moldova finds itself vulnerable to adverse climate-change impacts and cooperation with neighbouring Ukraine is needed to solve some issues regarding waterways.

Moldova has a fast-growing digital sector. Some 86% of citizens have daily access to internet services. Also, a large IT infrastructure of online public services has been developed. EU directives in this field are being transposed into Moldovan law. Moldova approximates EU cybersecurity law ahead of legal obligations to do so. However, cybersecurity capacities remain weak, and the cyber-protection infrastructure does not cover the
whole spectrum of central and local public authorities and state agencies.

The Agreement contains comprehensive lists of EU consumer protection and company law for approximation. Here the record is not so good, with frequent neglect in the practice of consumer rights and delays in company law reform.

Moldovan labour law has been largely aligned on EU directives and ILO conventions. Until recently there was a low unemployment rate coupled with a low employment rate, with this seeming paradox explained by the very substantial level of emigration of people of working age. However, the Covid-19 shock has taken unemployment to a new high, which poses a huge problem for the foreseeable future.

While Moldova’s schools achieve respectable results according to international surveys, serious weaknesses in human capital endowment remain. EU programmes such as Erasmus+ are useful, and Moldova seeks special EU support for vocational education initiatives that register progress.

The visa-free travel with Schengen states is very actively used. About half the population now have biometric passports, and an estimated 500,000 citizens have dual nationality with Romanian, thus EU, citizenship. However, the number of fake asylum requests and illegal stays in the EU has been growing.

Moldova’s rating for gender equality has been quite positive, with the main weakness remaining in leadership positions in government and business. The election of Maia Sandu as Moldova’s first female president, along with other female officials such as the president of the Constitutional Court, may serve as a model and stimulus to ambitious young Moldovan women.

Civil society is active in holding the government to account. There were attempts by the government to undermine their functioning in 2017-19, but these failed because of pressures from the EU’s conditions for financial assistance.

**Trade structures**

The EU has become Moldova’s predominant export market, taking a steadily rising share of all exports from 41% in 2005, to 66% of the total in 2019. Also of note has been the rise in exports to
neighbouring countries in free trade with the EU (e.g. Ukraine and Turkey), bringing this total for ‘EU+’ to a massive 80%. The counterpart loss of export market share has been with Russia, which imposed trade restrictions as sanctions against Moldova.

Moldova’s imports for the EU have grown more modestly, rising from 45% in 2005 to 49% in 2019. Russia’s share in Moldova’s imports has remained constant at 12% of the total, mainly reflecting gas supplies. The rest of the world gained in market share significantly.

In terms of commodity composition, from 2005 to 2018, Moldova’s exports have developed most strongly in the food and beverages and industrial supplies sectors. This contrasts with declining exports to the CIS/Eurasian Economic Union (EaEU). Moldova’s imports from the EU have been broadly based across all main categories of goods.

Moldova’s exports are highly concentrated in four EU member states: Romania, Italy, Germany and Poland. In 2019, Romania accounted for around 38% of all exports.1 Exports of transport equipment consist mainly of electrical circuits assembled from parts imported from the EU, mainly from Romania. Moldova processes these under the inward-processing regime and subsequently exports them back to the EU. Agricultural exports are growing to the EU, as also to Turkey and Switzerland. Moldova benefits from a free trade agreement (FTA) with Turkey, and this enables exports of sunflower seeds and maize with preferential export tariff quotas.

Overall, the evolution of Moldova’s trade structures with the EU have been a notable success, especially for its exports, which grew more strongly than either of the other two DCFTA states.

The Covid-19 shock

At first, between March and August 2020, Moldova saw only a relatively slow build-up of infections, but then there was a severe acceleration that peaked in November, and then again in February 2021. The total number of cases reached 166,553 by 11 February,

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with 3,580 deaths. For a small population of 2.7 million citizens these are high numbers (infections reaching 6.2% of the population).

Covid-19 has highlighted shortcomings in the government’s capacity to manage and mitigate a crisis of this order, with insufficient technical facilities and cumbersome internal procedures, including for the coordination of testing facilities. Nonetheless, the medical sector demonstrated skills and resilience in treating infected people, with external assistance of the WHO, the EU (and some member states, notably Romania), and other global actors. The EU reoriented budget support to help Moldova acquire medical supplies and equipment, and also opened a macroeconomic credit line of €100 million.

As 2021 began, the focus switched to mass vaccination. On 6 January, 13 foreign ministers of the EU proposed to the Foreign Affairs Council that vaccination assistance be extended to the neighbouring countries of Eastern Europe. On 11 February the European Commission announced a new package of €35 million grant aid to the six Eastern Partnership (EaP) states to help prepare for mass vaccination. This was alongside major grants of €850 million from the EU and its member states to the WHO’s COVAX scheme to supply 1.3 billion doses of vaccines, corresponding to 20% of the population of beneficiary states. Moldova signed a €15 million Covid-19 resilience contract with the EU, aimed at mitigating the social and economic impact of the pandemic.

The pandemic overlapped with other adverse conditions (droughts) that led to one of the severest economic recessions of the past two decades, with the economy shrinking by more than 6%. In 2020 the government allocated about 1% of GDP to support the recovery package, which is smaller than the average 5% in south-eastern Europe. Only 19% of the total went to unemployment benefits or other pandemic-related work payments. Some 35.4% of the total was used to ease the repayment of bank loans by companies. The reduced demand for services and goods slashed the incomes of small and medium enterprises (SMEs). The lockdowns and other restrictions, as well as the slow procurement and delivery of vaccines, contributed to a low public satisfaction with the government’s performance.
New elements and looking ahead

Moldova, like Georgia and Ukraine, is disappointed that the EU has not been able to respond more positively to its ambitions of having ‘membership perspectives’ recognised. In the first years of the AAs, when the associated states were just beginning to come to terms with the commitments they had entered into, this was understandable. After seven years though, and in spite of much political instability at home, Moldova has not changed its mind on the EU, and the question of how the EU could respond more positively is now posed.

A plausible and politically acceptable dynamic perspective has to be defined to sustain the motivation of the associated states. Without this, the process may – in the eyes of independent observers – become unsustainable. There are indeed some starting points: elements of change and positive momentum can be observed in the policies of the EU and its debates with the associated states.

First, Moldova, like Georgia and Ukraine, submitted comprehensive proposals to the EU for upgrading their AAs, many of which refer to specific sectors and instruments, as reported in the relevant chapters of this volume. This was in response to the Commission’s opening of a ‘structured consultation’ in 2019 of stakeholders in the Eastern Partnership (EaP). The overarching proposal from Moldova is to work with “a renewed ambition”, which “should in practice mean new political horizons of cooperation, opening access to new programmes and instruments, deepening economic integration, building stronger infrastructure and communications connections, widening people-to-people contacts”. These summary objectives were followed by very detailed and practical elaboration of desirable initiatives.

Second, there is discussion between the EU and the associated states about possible accession to the limited sectoral ‘unions’ of the EU. The energy union, digital union and banking union are relative newcomers to the debate, while the customs union has always existed. In addition, the Green Deal is now subject to debate on how far the associated states could join in.

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A third approach is seen in the increasing tendency of the EU to extend its policy instruments and programmes in an identical way to both the Western Balkan states and the associated states of Eastern Europe. One clear example is the Energy Community, which started with just the Western Balkans, but was enlarged subsequently to include all three associated states of Eastern Europe. There are other examples of this, which have been set out in detail elsewhere. There is also the point that the Eastern European associated states are broadly comparable to the Western Balkan states in their approximation of EU laws and norms. Yet in practice this process of parallel tracks for the two groups has so far been somewhat ad hoc in its evolution. A natural next step could be for the EU to adopt a more strategic approach for a common strategy of European integration for both groups together.

Yet such developments, useful as they may be, do not answer the basic political conundrum, that it is undemocratic for neighbouring states to be expected indefinitely to adopt and keep masses of EU legislation up to date without a say in their definition. It is a contemporary European version of the old saying ‘no taxation without representation’. Now, seven years after the signature of the AAs, it may be time to confront the issue squarely.

Most recently, on 1 February 2021, the foreign ministers of the three associated states wrote a ‘Joint letter’ to the EU institutions and member states, calling on them to engage in identifying new areas and forms of deeper cooperation – notably in “new thematic areas for enhanced cooperation, such as transport, energy, digital transformation, green economy, justice and home affairs, communications, health care.” Their final argument will in due course prove to be the most crucial, namely a call for “a new, strategic, long-term vision” for the relationship with the EU.

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4 “Joint letter of Georgia, the Republic of Moldova and Ukraine on enhanced cooperation with the Associated Partners within the Eastern Partnership”, Tbilisi, Chisinau, Kyiv, 1 February 2021.
While this vision remains to be specified, one approach described in a recent CEPS paper could be to give a ‘new momentum’ to the relationship, with schemes to go beyond the functional and sectoral actions to include progressive institutional integration into the EU as well. Transitional arrangements would stay in place until full accession became feasible on both sides, for the EU and the aspiring associated states. While there would in general be full access to the policies and instruments of the EU, the most sensitive issue would be over the power to vote in the legislative acts of the Council. There is already the practice in the European Economic Area (EEA) for the non-EU states to participate in informal meetings of the Council where the agenda is of common interest, notably over internal market affairs, but without a vote. There could be elected members of the European Parliament. There could be full participation in the EU’s consultative institutions (Economic and Social Committee and Committee of the Regions). Each of these steps would be subject to conditionality, regarding in particular democratic practice, the rule of law, and compliance with sectoral policies.

These issues are eminently suitable matters for the Conference on the Future of Europe. Moldova, and the other associated states, should be invited to make submissions, further developing ideas for deepening their European perspectives.

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5 M. Emerson et al., op. cit.
PART I.

POLITICAL PRINCIPLES, RULE OF LAW, AND FOREIGN POLICY
1. **Political principles**

**Provisions of the Agreement**

The entire Association Agreement is premised on a common commitment to modern European democratic political values, recognised in the preamble:

[T]he common values on which the European Union is built – namely democracy, respect for human rights and fundamental freedoms, and the rule of law – lie also at the heart of political association and economic integration as envisaged in this Agreement.

These principles are repeated in Art. 2 and are declared “essential elements” of the Agreement. This links to Art. 455, which states that in the case of violation of these principles the Agreement may be suspended. Political dialogue and cooperation on “domestic reform” should be conducted with respect for these same principles (Art. 6). This political dialogue is conducted through regular meetings at different ministerial and senior official levels.

On the substantive implementation of the basic principles, the jointly agreed Association Agenda text of 26 June 2014 is more explicit. Priority matters for action include institutional questions guaranteeing democracy, the judicial sector, and human rights and fundamental freedoms. These challenges are addressed in considerable detail in the Agenda.

**Democratic institutions.** The Association Agenda sees the strengthening of the institutions as essential to guaranteeing respect for democracy and the rule of law. There is a specific call for a comprehensive revision of the constitution to clarify the
competences of the president and to prevent potential conflict through institutional deadlocks. Furthermore, Moldova has committed itself to clarifying the appointment procedures and competences of the Constitutional Court, and to upgrading the legislation on party financing and advancing decentralisation reform.

**Judicial sector.** To ensure the impartiality of the judiciary, prosecution and law enforcement bodies, and their freedom from political interference and corruption, Moldova is expected to ensure the independent functioning of the Office of the Prosecutor, review the appointment procedures of judges and prosecutors, strengthen the independence of the judiciary, and establish zero tolerance of corruption for the legal profession (see further in Chapter 2 on rule of law). On different occasions, the EU stressed that there is an urgent need for key reforms through the implementation of the Association Agreement, which is rooted in democracy, respect for human rights and for the rule of law; and more specifically to overcome the challenges of “weak state institutions, persisting high levels of corruption and oligarchic structures, a deficient judiciary etc.”

**Human rights and fundamental freedoms.** In the Association Agenda, Moldova has committed itself to ensuring the rights of the most vulnerable groups and national minorities, implementing the Law on Ensuring Equality, and guaranteeing the effective implementation of the judgments of the European Court of Human Rights (ECtHR). In the 2005 EU–Moldova human rights dialogue, the EU “encouraged the Moldovan government to ratify the European Charter for Regional or Minority Languages as well as to adopt a national strategy dedicated to national minorities”. During the 11th bilateral human rights dialogue in 2020, the focus fell on electoral legislation and media independence. In this sense, the EU asked Moldova to “address the outstanding recommendations of the Council of Europe Venice Commission” and “enhance transparency and competition in the media sector, with a view to addressing the concentration of media ownership.”

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The 2017-19 Association Agenda also addresses freedom of expression and focuses on the freedom and pluralism of media, and protection of journalists’ sources. It also envisages the protection of children’s rights and guarantees the implementation of legislation to prevent domestic violence. In an effort to improve gender equality, Moldova is expected to ensure equal treatment in social, economic and political life, and in decision making.

Implementation perspectives

The constitution. According to the constitution of 1994, Moldova is an independent, sovereign and indivisible state. The country must be governed according to the supreme values of the rule of law, democracy, human rights and fundamental freedoms, justice and political pluralism. Moldova has a parliamentary form of governance, with limited presidential powers. This is a result of the contested constitutional reform carried out through Law No. 1115-XIV of 5 July 2000, which ended the semi-presidential form of governance. The changes established that the president be elected by a large majority of the members of parliament (61 out of 101 votes or three-fifths of the total number of MPs), and that failure to elect a president requires new elections in the national assembly. In March 2016, the Constitutional Court declared the changes introduced in 2000 unconstitutional and established direct presidential elections by the citizens. The elections held in October-November 2016 resulted in the victory of an openly pro-Russian candidate, Igor Dodon. This sparked tensions between different branches of power – the pro-EU-oriented government and parliamentary majority, and the pro-Russia presidential office.

In October 2017, the Constitutional Court allowed the possibility of a ‘temporary suspension’ of the President if he refused to fulfil his constitutional obligations, in particular the promulgation of laws. The same ruling entitled the Prime Minister or the Speaker of the Parliament to temporarily assume the role of President on specified issues. Furthermore, in October 2017, with the temporary suspension of the President, the parliamentary majority appointed the defence minister in his place, renewed the government’s composition, and in January 2018 adopted anti-

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4 Constitutional Court decision of 4 March 2016, see https://bit.ly/3ozN1pR.
propaganda legislation. Under these circumstances, the Court started to reshape the political environment through its rulings, indirectly disadvantaging the opposition in many respects. After the fall of the oligarchic regime in summer 2019 (see further below) and the appointment of opposition leader Maia Sadu as Prime Minister, the balance of powers between the key state institutions was restored. The appointment of new judges in the Constitutional Court in July-August 2019 prevented enforcement of various controversial legal acts and decisions, adopted against the legislative procedures by the Party of Socialists, with the political support of the then President Igor Dodon.

The democratic institutions are generally perceived to be fragile and, therefore, vulnerable to the politicisation of ministries, agencies, and local public administrations, even after the end of the oligarchic regime. This vulnerability has a particularly damaging impact on several strategic areas, notably law enforcement, prosecution and the anti-corruption institutions, particularly between July 2009 and June 2019 when the institutions were partitioned in line with the political weight and interests of governing political parties.

**Political parties.** Between 2009 and 2019, two types of political parties dominated the political system: those subordinated to local oligarchic groups and those suspected of being financed from abroad (by Russia or offshore zones). In recent years, political parties that rely on clean books and donations from credible sources have gained in popularity, most strikingly with Maia Sandu’s victory in the 2020 presidential elections. A fairer and more competitive environment for political parties began with Law No 36 of 9 April 2015\(^5\) (on financing political parties), which introduces the possibility of financing political parties through individual contributions as well as public funds (up to 0.2% of the state budget revenues). The post-2018 legal revisions changed the allocation of public funds received proportionally to the performance at the parliamentary and local elections. In 2020, 30% of funds provided to the parties depend on the outcome of the parliamentary elections, 30% on local general elections, 15% on presidential elections, and the rest based on women and youth elected in the parliamentary

\(^5\) See http://lex.justice.md/md/358046/.
and local elections. Allocations stipulated in the annual budget law increased the strictness of the reporting by the political parties. The electronic system of reporting and financial control, launched with a two-year delay in 2020, facilitates the reporting but still has limited access data about spending and donations. The prohibition of using funds earned abroad, which limited the right of Moldovans from the diaspora before 2019, was abolished. In line with this law and according to the annual budgetary laws, the Central Electoral Commission approved the allocation of about MDL 39 million in 2016 and MDL 40 million in 2017 for political parties based on the results of national and local elections in November 2014 and June 2015 respectively. The amount for 2020 was about MDL 38 million, taking into account the results of the 2016 presidential elections, and the 2019 parliamentary and local general elections. Political parties with legal status that participated in the elections are eligible to access state subventions, unlike independent candidates.

An unprecedented concentration of power by an oligarchic network dominated the political scene in 2016-19. The leading oligarch, Vladimir Plahotniuc, had accumulated controlling interests in many sectors of the economy (banking, media, real estate, etc.). His Democratic Party gained control of the parliament in 2016, helped by acts of intimidation and bribery. The leadership of the anti-corruption bodies, ministries, state agencies and the Constitution Court were filled with people tied to Plahotniuc, substantiating the signs of state capture. The undemocratic change of the voting system in 2017 and the cancellation of the 2018 local elections in the state capital Chișinău endangered the very existence of the rule of law. The oligarchic system attempted to perpetuate its ruling through heavy manipulation of the 2019 parliamentary elections. However, an opportunistic coalition of pro-Russian and pro-EU forces, led by the then President Igor Dodon and the leaders of the opposition respectively, prevented this from happening. The joint anti-oligarchic stand of the external actors - the EU, US and Russia - against the regime led Vladimir Plahotniuc led to his flight from the country to the US in the summer of 2019. At the beginning of 2020, the US prohibited him from staying, and the fugitive oligarch and his family moved to Turkey. The Moldovan authorities requested his extradition under the accusation of severe crimes related to the 2012-2014 banking fraud, but the request has seen no
outcome. Similar accusations are facing a more minor oligarch, Ilan Shor, who is hiding in Israel while his political party has been active in the parliament since 2019, even increasing its chances of doing well in future elections.

Electoral processes. Although the electoral process is competitive, it is often marred by irregularities that prevent it from being considered truly fair and free. Since independence, Moldova has organised nine national parliamentary elections: five regular elections and three early elections on account of the inability of parliament to elect the president. Moldova held direct presidential elections in 1996, 2016 and 2020. Numerous objections raised by the Organization for Security and Cooperation in Europe (OSCE) electoral observers over the past decade remained pertinent in the presidential elections of October/November 2016 and November 2020, in particular regarding the verification of signatures, the financing of the electoral campaign, unbalanced media coverage, etc. The ruling of the Constitutional Court of December 2016 confirmed some of these deficiencies. It also emphasised that the supporters of the Russia-subordinated Moldovan Metropolitan Church committed abusive interference in the presidential electoral campaign, using “extremist, xenophobic, homophobic and sexist language against a candidate”. Additionally, the Court objected to the lack of legal actions sanctioning the religious cults for electoral interference.6

In 2017, civil society organisations requested the creation of a Working Group to amend the Electoral Code, taking into account recommendations by the OSCE and the Office for Democratic Institutions and Human Rights on the previous parliamentary elections. The Central Election Commission undertook to extend the online registration period for voters from abroad in order to increase the number of registered voters and improve the transparency of the process.7 A preliminary feasibility study conducted with financial support from Norway and Sweden pointed out that Moldova implements the preconditions for a gradual introduction of electronic votes.8 However, there is very

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6 Constitutional Court, Judgment nr. 139e/2016, see https://bit.ly/3owZquo.
7 OSCE, Final Report, see www.osce.org/odihr/elections/moldova/178226.
little progress in establishing electronic voting, although the increasing level of emigration requires some urgent tools to facilitate voting by Moldovan citizens living abroad. The introduction of a State Register of Voters in 2014 led to some improvements of the electoral lists, but more efforts are needed to eliminate the problem entirely.

The introduction in April 2017 of the mixed-voting system by the Democratic Party supported by the Party of Socialists was seen as a major drawback for the national electoral system. This resulted in the creation of uninominal constituencies from which 51 MPs were elected, including three from the diaspora, two from the Gagauzia Autonomy and two from Transnistrian region. The remaining 50 MPs were appointed based on the previous party list principle. The Venice Commission advised against the new electoral system, in particular because it exposes local candidates to influence from business people. The political preconditions of the EU’s macro-financial assistance (MFA) promised to Moldova in November 2017 also referred critically to the changed voting system. The situation worsened with the contested decision by the Moldovan courts to invalidate the mayoral elections in Chișinău that took place in June 2018. Subsequently, the European Parliament promptly passed a Resolution that advocated the suspension of MFA for which a tranche had been scheduled for July 2018. The same year, the EU suspended the assistance. The fall of the oligarchic regime and the cancellation of the mixed-system voting in the summer of 2019 did not prevent the entry into parliament of political forces tied to oligarchic networks, such as the exponents of the Democratic Party and the party of Ilan Shor. Consequently, triggering of early parliamentary elections turned into a political urgency in the period 2020-2021.

The use of administrative resources, vote-buying practices, in particular those that involve the population from the Transnistrian region, party financing from obscure sources and disproportionate access to mass media constitute the main factors that distort the outcome of elections. Geopolitical factors continue to have a

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divisive effect on elections, with voters choosing between pro-Western and pro-Russian political parties, while the Moldovan diaspora located in the West votes for pro-EU political entities and candidates.

**Human rights.** Moldova has adhered to the European Convention on Human Rights and Fundamental Freedoms and must implement the rulings of the ECtHR. Overall, the number of yearly cases filed against Moldova in Strasbourg varied from 1,011 in 2015 and 1,354 in 2013 to 758 in 2017 and 1,056 in 2019. Moldova ranked 5th in terms of its number of applications per capita in 2019. By June 2020, the ECtHR had issued 461 rulings on Moldova, pointing to 661 violations and imposing fines of more than €17 million.

The most common judgments issued by the ECtHR refer to right to fair trial (152 judgments), protection of property (128), the right to liberty and security (103), inhuman or degrading treatment and torture (96), and the lack of effective remedy (58). The Strasbourg Court also ruled on judgments linked to the violation of freedom of expression, freedom of religion and the prohibition of discrimination. Up until September 2019, 22 judgments concerned the Transnistrian region and charged both Moldova and Russia with breaching the right to education, the right to life, the prohibition of inhuman or degrading treatment, and the right to liberty and security. However, the majority of these rulings have not been executed.

Significant progress has been made in the enforcement of ECtHR judgments and fulfilment of the European Convention on Human Rights, however, and also in the activity of mediators to promote the inclusion of people with disabilities and victims of torture and ill treatment. Although the authorities have undertaken measures to fight discrimination, this remains a serious problem regarding the poor, those who are HIV-positive or LGBT, Roma and women.

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11 ECtHR, see https://www.echr.coe.int/pages/home.aspx?p=reports&c=.
12 Legal Resources Centre of Moldova, see https://bit.ly/3wmL6ay.
Since 2016, the National Council for the Prevention of Torture has been active. It is presided over by the Ombudsman. The competences of the Council are limited to performing field visits and issuing recommendations. It lacks any enforcement mechanism and adequate financial resources for the members of the Council.

A newly established Council on the Prevention and Elimination of Discrimination started examining cases in 2013. Although the Council is very active, with approximately 140 decisions issued on discrimination cases in 2016 alone, it is severely limited in its mandate. The legislation does not allow the Council to apply sanctions, nor can it lodge complaints to the courts. This gives its decisions merely a declarative or prescriptive character. Additionally, the Council faces institutional shortcomings and a high turnover of personnel. According to its 2019 activity report, the areas of discrimination reported were access to public services (30%), and the labour market (21%), which slightly decreased compared to 2016. At the same time, complaints on damaging personal dignity (21%) and access to justice (19%) increased in 2019. A new draft law increasing the competences of the Council was drafted in 2017, but there are doubts whether this will empower the Council. Some amendments to the Criminal Code and Code of Administrative Offences concerning violence targeting an individual’s sexual orientation and sexual identity were proposed, but they have not yet been approved. However, the share of implemented recommendations reached only 40-50%.

According to a poll carried out by the Council together with local and Romanian NGOs in 2014, the Moldovans who suffer discrimination the most are the poor (31.9%), the elderly (28.8%) people with mental disabilities (25.7%) or physical disabilities (23.9%), and sexual minorities (19.9%). In the past few years, the Index of Social Distance has improved for the least accepted group – the LGBT community. The public perception about other discriminated groups have also improved, particularly the HIV/AIDS group and people with mental disabilities. 

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Nevertheless, the Council reported in 2019 that the LGBT community “is among the most affected groups” that faced “the most aggressive and violent discourses.”

There have been some attempts to improve the integration of people with disabilities, who number about 610 persons out of 10,000 citizens, according to the 2014 national census. Their political rights are gradually improving; 80% of persons with disabilities participated in the 2016 presidential elections. Important changes took place in May 2015, when the law amending the Electoral Code was passed, giving people with mental disabilities the right to vote. The Civil Code also requires changes by offering people with mental disabilities the right to take decisions by themselves. However, disabled people face continued discrimination, poor integration into the labour market, difficulties in accessing public spaces (schools, hospitals, public administration, etc.), particularly in rural areas, and limited protection of their rights in the courts (e.g. people with a mental illness). Members of this social group rely excessively on state allocations and family support, and have overall limited resources to actively take part in public life.

A new National Human Rights Strategy for 2018-22 was approved at the end of 2017 aiming to facilitate access to justice, promoting equality, protecting the rights of people with disabilities and of citizens belonging to minorities and originating from the Transnistrian region, etc. However, the Strategy lacks an effective mechanism for institutional planning and coordination and has no assurance of adequate budgetary allocations.

Gender equality. With regard to gender equality, major changes will be implemented as a result of Law No 180 of 15 May 2014, adopted in April 2016. The Law introduces amendments to the Electoral Code, the Law on Government and the Parliament Regulation setting a minimum of 40% women represented on the electoral lists of political parties, the composition of the government and in the permanent bureau of the elected parliament. Thus, the

state rewards the parties that have women elected in the parliamentary or local elections with more financing from the public budget. It also requires the amendment of advertising and mass media legislation, prohibiting sexist messages and images. In addition, it changes the legislation on healthcare protection, labour and detention, and improves women’s conditions. All these provisions are in line with best practices promoted by the Council of Europe and the EU.

Moldova adopted the Law to join the Council of Europe’s Convention on preventing and combating violence against women and domestic violence in February 2017, but it must now complete the ratification procedure. Previous legislation of July 2016 introduced numerous provisions aimed at protecting the victims of violence. According to the National Action Plan for the Association Agreement implementation in 2017-19, the National Justice Institute should carry out training courses for judges on the prevention of domestic violence. The Inter-Ministerial Coordinating Council on preventing and fighting domestic violence meets with civil society representatives to examine and coordinate actions concerning the pressing issues. (See also Chapter 23 for a more detailed account).

**Inter-ethnic relations.** The strategy for the Consolidation of Inter-Ethnic Relations approved in February 2017 promotes ethnic diversity and measures to integrate ethnic minorities into public life in a non-discriminatory way. According to the 2014 census, minorities account for about 17% of the population, a decrease compared to the 2004 census (23%). Delays in the implementation of the Strategy on inter-ethnic relations caused reactions from the OSCE High Commissioner on National Minorities, who in November 2017 urged the authorities to adopt the Action Plan and allocate financial support, particularly for programmes teaching the state language to minorities. The integration of the Roma minority takes place under the Action Plan for supporting the Roma people of Moldova (2016–20), adopted in June 2016. Financial resources are the main constraint in the implementation of the strategic documents on inter-ethnic dialogue, and more specifically on integration of Roma people, who face discriminatory public perception.
Political principles at a glance

Democracy, respect for human rights and the rule of law are deemed “essential elements” of the Association Agreement, on which the Association Agenda text gives more detail.

Respect for democracy and rule of law in Moldova has been seriously damaged by the dysfunctional rule of law, politicisation of the institutions and the influence of oligarchic groups.

Significant corrections started in the second half of 2019 when, after the fall of the oligarchic regime, the mixed-voting system was reformed. The 2020 presidential election has created positive expectations for improved mainstream politics. However, a qualitative change will depend on whether forthcoming parliamentary elections in 2021 result in a coherent presidential-parliamentary alignment.

Moldova’s human rights record is improving, but significant problems remain, in particular in efforts to eliminate discrimination against specific groups (women, minorities, the poor, persons with disabilities and the elderly).

The human rights situation in the Transnistrian region is not improving, with violations of the right to education, the prohibition of degrading treatment, and the right to liberty and security, as reflected in judgments of the European Court of Human Rights (ECtHR).
2. **Rule of Law and Movement of People**

This chapter treats two sets of partly related issues: first, the fight against organised crime, corruption and terrorism; and second, border management and the movement of people, in particular the issue of visa-free travel between Moldova and the EU. Combating corruption remains the most pressing cross-sectoral issue of the Association Agreement.

*Justice system.* The Justice Sector Reform Strategy for the years 2011–16, extended until 2017, changed various technical elements of the juridical system: salaries for judges were increased as were the number of court staff; judicial hearings started to be recorded and streamlined; and an improved system of randomly assigning cases was introduced, ensuring access to schedules and judgments of the courts. However, the reform failed to substantially improve the integrity of judges and the leadership of the key judicial institutions. Acknowledging that the 2011-16 strategy fell flat, the Minister of Justice proposed in January 2018 a series of measures to revive the justice system.

These measures included the following: obligatory verification of the assets and revenues of the judges by the National Authority of Integrity (NAI); merit-based promotion of the judges during the selection; increasing the competition by introducing periodic contests among judges; operating constitutional amendments aimed at easing the contest for entering the Superior
Court of Justice; and dismissing any judge who fails the integrity check. Another intention was to make the Superior Council of Magistracy more accountable and less influential in deciding the career trajectories of judges. In addition, the infrastructure of the courts of appeal should improve, reducing the burden of the court in Chișinău that is responsible for examining some 45% of files nationwide.\(^1\) The drafting of the new reform lasted between 2017 and 2020. In between, while waiting for the new legislative elections in 2019, the authorities continued the initiated reforms as part of the Small-Scale Justice Reform (2018). In late November 2020, 49 out of 87 present MPs voted for the Strategy for Ensuring Independence and Integrity of the Justice Sector for 2021-2024. The document was drafted with the support of external partners and its financing is supposed to come from the public funds and the external assistance. Political instability, internal resistance, lack of financial resources and the unknown effects of the Covid-19 pandemic are the major risks to good implementation.\(^2\)

To date, the EU has invested approximately €30 million of the €60 million intended for the reform of the judicial system. Because of insufficient progress in reforming the justice sector in 2014-15, the EU decided to annul the remaining amount (€28 million) of budgetary support,\(^3\) confirming the hard realities faced in reforming the justice system.

**Reforming the Prosecutor’s Office.** The Justice Sector Reform Strategy led to a new Law on Prosecution adopted in February 2016, after numerous delays in 2015. The Law refers to the functioning of the General Prosecutor’s Office and of the Superior Council of Prosecutors, along with the appointment, transfer and promotion of prosecutors, and reduced layers of hierarchy. It also provides for the President to appoint the prosecutor general, upon the proposal of the Superior Council of Prosecutors, as opposed to the current appointment by the parliament. The prosecutor’s mandate will now last for seven years instead of five. The Law entered into force on 1 August 2016, but in order to make it fully functional, secondary

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\(^1\) See https://bit.ly/3f1Wxi3.

\(^2\) 2021-2024 Justice Reform, see https://bit.ly/3fynCbN.

\(^3\) EU Delegation to Chișinău, Press-release, 11 October 2017, see https://bit.ly/33XVZDE.
legislation and the Law on specialised prosecutor offices also need to be adopted. A new General Prosecutor was appointed in December 2016, in line with new prosecutor legislation and the amended constitution, but controversial information about his assets was overlooked. Various civil society organisations questioned the fairness of the selection competition, associating the new prosecutor with perpetrators of the violence during the 2009 youth unrest, and the 2012-14 banking fraud.

In the summer of 2019, the parliamentary majority of the Party of Socialists of the Republic of Moldova (PSRM) and the Bloc ACUM, formed after the fall of the oligarchic regime, swiftly voted for an interim prosecutor, following the resignation of the previous prosecutor. To counterbalance the mistrusted Superior Council of Prosecutors from the selection, the Socialist-ACUM coalition operated legislative changes in the law on the prosecutor to set up a committee of the pre-selection of the prosecutor in autumn 2019 that also consisted of external experts (James Hamilton) and local civil society representatives (Igor Botan). The attempt of the then Prime Minister Maia Sandu to ensure the appointment of a politically independent prosecutor triggered the dismissal of her government in November 2019.

In May 2020, the Constitutional Court ruled that the legal amendments on the pre-selection committee were unconstitutional. However, that did not affect the seven-year mandate of the prosecutor appointed in late 2019, former member of the Democratic Party Alexandr Stoianoglo. Stoianoglo revived the investigations concerning the banking fraud, providing evidence that between 2016 and 2019 the Anticorruption Prosecution Office (APO) (a sub-unit of the Prosecutor Office) undermined the investigations by diverting the existing human resources (prosecutors, investigative officers) to insignificant cases. Civil society and the opposition were dissatisfied with the prosecutor’s lack of tangible results in the form of arrested individuals and returned financial assets from abroad in the case of banking the fraud. The biggest criticisms relate to non-investigation of the alleged illegal financing of the Socialist Party during the 2016

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5 Prosecutor Office, see http://www.procuratura.md/md/newslist/1211/1/8211/.
presidential elections. Although the prosecutor’s office is fighting to assert its independence from political forces, it has a long way to go to gain robust public credibility.

**The fight against corruption, crime and terrorism**

Several chapters of the DCFTA have a direct bearing on the fight to reduce corruption, for example, on competition and public procurement policies. While the Agreement deals with corruption only in brief and declaratory terms, the Association Agenda document refers to the need to implement an anti-corruption strategy and improve the functioning of the National Anti-corruption Centre (NAC) and the NAI.

According to independent sources, Moldova’s record in the fight against corruption is poor. For instance, the Transparency International Perception Index for 2019 ranks Moldova in 120th place out of a world total of 198 countries. Georgia and Ukraine came in at 44th and 126th place respectively. As detailed below, there has been considerable legislation and institutional development aimed at curbing corruption, but these have not yet translated into convincing results.

The biggest corruption scandals of the past few years have related to deep problems in the banking sector and the implication of offshore companies, questions about the integrity of judges and political corruption surrounding Members of Parliament.

According to an assessment of perceptions among professionals in the judicial sector, lawyers believe that between 2011 and 2020 corruption increased significantly in the police (47%) and prosecutors (46%), and less among lawyers (35%). For the same period, the prosecutors reckoned that corruption increased the most among police workers (61%). Lawyers (52%) and prosecutors (46%) backed the same opinion. Lawyers and prosecutors found the highest level of corruption at the Courts of Appeal (51-58%), and the lowest at the Superior Council of Magistracy (19-21%). Overall, lawyers are the most worried about the extent of corruption, 74% of them believing that there is a lot of corruption.6

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6 Derived from the Legal Resources Centre from Moldova, “Perceptions of judges, prosecutors and lawyers on justice reform and fight against corruption”, December 2020.
The authorities have been implementing national anti-corruption strategies since 2004. The newest one, adopted in March 2017, introduced actions for the period 2017–20, including various notions on integrity, such as political, institutional and private sector integrity, and unifying the national policies relevant for fighting corruption and ensuring integrity. The Strategy provides a new holistic approach in tackling and preventing corruption, based on the Transparency International methodology in assessing the national integrity system. The measures consist of eight pillars of actions, which refer to parliament, government, the public sector and local public administration, justice and anti-corruption authorities, the Central Election Commission and political parties, the Court of Accounts, the Ombudsman, the private sector, and civil society and the media. By the end of 2019, the authorities had implemented only 45% of the strategy. The registered delays relate to the establishment of anti-corruption courts, approval of the strategy on recovering the criminal assets, and clarification of the rules concerning the monitoring of the electoral funding of political parties and so on.

Since 2012, the NAC has been authorised to conduct preventive, operational, investigative and integrity testing activities. These include carrying out anti-corruption screening of draft legal acts, developing and implementing integrity plans and monitoring anti-corruption policies. Its institutional independence is frequently questioned by civil society and the opposition because of political interference in the appointment of the NAC head, and the presumably selective approach it applies in investigating corruption cases. Its independence and accountability have also been subject to political disputes within the latest ruling coalitions, which returned supervision of the NAC to the Parliament in 2015. In the second half of 2019, with the advisor of President Igor Dodon becoming the new leader of the NAC, it was clear that the attempts of the PSRM-ACUM coalition to remove the NAC from political influence had not paid off.

There was no significant change in the pattern of corruption in 2020 from the previous years. In 2018-19, the NAC detected 640 criminal cases, out of which 546 were corruption-related cases: influence peddling – 178 cases; passive corruption - 148; active corruption – 94; and abuse of office – 48. In 2019, the courts issued
in 191 criminal cases the seizing of assets of 139 individuals, of a value that equals MDL 2.6 billion (€123.5 million). The responsibility for assets’ confiscation is with the Agency for the Recovery of Criminal Assets (ARCA), established in 2017, partially under EU conditionality. The criminal cases finalised by the NAC in 2018-19 involved law enforcement the most, at 40 persons; then central and local public administration – 17 persons; the educational sector – 11 persons; and institutions affiliated with the health sector – 7 persons.

Since 2016, the NAI, which replaced the old National Integrity Commission, has been undergoing institutional reforms. Although intended to strengthen its institutional independence and expand its competences, the slow pace of reform practically blocked its activity for about two years. This seriously affected the issuing of assessments on the declarations of income and interests that are obligatory for public officials under the new vetting rules. The NAI’s ineffectiveness in 2013-2015 meant that only two penal cases have been brought to the court, and just 17 cases resulted in the application of administrative and disciplinary sanctions. Another serious issue is the shortage of personnel, particularly integrity inspectors. In January 2020, about 49% of the jobs were unoccupied, of which one third were for the position of integrity inspectors. In early 2020, the average age of workers in the NAI was 38 years old. After salaries were slashed in 2019 by almost 60%, or up to €470 a month, the inability to attract personnel is likely to remain a problem.

New leadership was appointed in late 2017, and by early 2018, the NAI’s activity had started to revive, with a focus on selecting integrity inspectors and defining its internal regulations. With the introduction of the mixed-voting system in spring 2017, the NAI started to issue integrity certificates to the electoral candidates for uninominal constituencies. The ‘e-Integrity’ information system for the submission of declarations of assets and interests has been functional since January 2018. In 2019, the newly set-up electronic platform was storing 637,714 declarations of public servants. Of 453 petitions and notifications, the NAI initiated examinations in about 66% of the cases. Of 147 drafted documents, 36% have been

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7 Progress report of the National Integrity Commission for 2013-2015, see www.ani.md.
scraped for insufficient evidence. However, in December 2020, the PSRM and the group of the Party of Ilan Shor initiated legislative changes that aim to reduce the impact of the NAI’s work. For instance, the new amendments would allow reducing the assessment period of the declarations of former public servants (including MPs) from three years to just one year. According to the new amendments, the investigations would be delayed until the final decisions of the courts, where the investigated individuals are entitled to contest the NAI’s findings.

An important reform was started in 2016, devoted to prosecution. The distinction between petty and high-level corruption was established, alongside the APO, the specialised agency targeting high-level corruption. This is subordinated to the General Prosecutor, but has a separate budget and personnel, thereby ensuring its independence. Contrary to the initial concept, however, the mandate of the APO was extended with additional competences for investigating cases of petty corruption and to present them in the courts. This also meant a partial overlap with the activities of the NAC. As a result, the anti-corruption prosecutors have been diverted from investigating high-level corruption cases: in 2016 more than 75% of cases carried out by the APO were petty corruption cases. In 2016-2019, out of the total number of criminal cases based on which the courts issued sentences, 33% of the cases were related to petty corruption, with a value of €230 each.

An EU report in December 2017 underlined that the transposition of the 4th EU anti-money laundering Directive is making slow progress. The same is observed for the ARCA, which started functioning at the end of 2018, one year after its establishment. Because the ARCA is integrated into the NAC, legal amendments are required if personnel are increased. By the end of

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8 Progress report of the National Integrity Commission for 2019, see www.ani.md.
2020, the number of staff had doubled to 17 employees.\textsuperscript{12} The ARCA participates in the asset-seizing that derives from the criminal cases investigated by the NAC.

Cooperation over crime received a boost when the agreement on operational and strategic cooperation between Moldova and Europol was signed in December 2014, and ratified in 2015. The SIENA system for sharing information used in trans-border crime investigations between Moldova and Europol has been operating since April 2015. With the support of Europol, Moldova took part in two operations during 2015: one to combat the illicit trafficking of cars (‘Hit 2-BLUE AMBER’) and the other targeting human trafficking and illegal migration (‘BLUE AMBER-SIROCCO’).

Moldovan embassies benefit from Anti-terrorism Guidelines, enforced by the Ministry of Foreign Affairs and European Integration. The Moldovan authorities take part in the Counter-Terrorism Network under the Police Cooperation Convention for Southeast Europe, established in December 2014.

**Movement of people and border management**

The Agreement sets the stage for comprehensive dialogue and cooperation on legal and illegal migration, trafficking and smuggling of people, border management, asylum, return policies and movement of people.

The latter is dealt with only in summary terms in the Agreement itself, but the Visa Liberalisation Action Plan (VLAP) goes into much more detail. Moldova was required to fully implement the visa ‘facilitation’ and ‘readmission’ agreements and took gradual steps to qualify for visa ‘liberalisation’ (i.e. visa-free travel to the EU). To this end, Moldova implemented measures under four headings: i) document security, including biometric passports; ii) integrated border management, migration management and asylum; iii) public order and security; and iv) external relations and fundamental rights. The VLAP was applied in two phases: i) legislation and institutional arrangements, followed by ii) implementation. Following a series of progress

reports, the European Commission finally concluded in November 2013 that the necessary conditions for visa-free travel to the EU for short stays for holders of biometric passports could begin, effective in April 2014.

**Document security and biometric passports.** According to the available data,\(^\text{13}\) at the end of 2017, about half the population (1.5 million) were in possession of biometric passports. In the Transnistrian region the number of passports surpassed 100,000 (representing approximately 20% of the region’s population). Biometric passports can be easily obtained across the country within short waiting periods, by application both in person and online (e-services). In December 2020, the price for a passport issued within 30 days constituted €40 (MDL 850), or €80 within 24 hours. In the first six years of the visa-free regime with the EU, 2.3 million Moldovans travelled to Schengen countries. The most active age category is 26-35 years old (573,157 people), followed by those 46 years old and above – 533,055 people.

The number of Moldovan citizens who have reclaimed Romanian citizenship (and therefore gained EU citizenship) was estimated to be more than 300,000 by 2014.\(^\text{14}\) Unofficial figures indicate a higher number of Moldovans with Romanian citizenship – more than 500,000 – many of whom have Romanian passports and/or IDs. By December 2020, the Romanian authorities were not providing official statistics on these individuals.

Personal data protection is regulated by Law No 133 of 8 July 2011. The National Centre for Personal Data Protection (NCPDP), set up in 2007, is responsible for monitoring and supervision, as well as for instructing the public authorities about the use of personal data (police, elections, education, and healthcare). Consultations on a new law on personal data protection were launched in October 2017. The new law has to transpose the provisions of the EU Regulation 2016/679 on processing and free movement of personal data. Although the aim of the draft law is to strengthen the institution’s operational capacity, it also raised concerns about widening the agency’s competences without ensuring control over its activity. Reviewing the draft law in late 2017, the Council of

\(^{13}\) Centre for State Information Resources, REGISTRU.

\(^{14}\) “Report 2014” by the Soros Foundation Romania, see https://bit.ly/3u5awrU.
Europe indicated that some provisions are inconsistent with the EU *acquis*, and that the procedure for receiving complaints and their settlement is highly questionable in terms of its effectiveness.\(^{15}\) The draft law was adopted in the first reading in late 2018. No further advancement in the adoption of the law followed until 2020. The main criticism raised by civil society\(^{16}\) against the NCPDP refers to the agency’s decision of 2013 to depersonalise the data of court rulings, which was reiterated by the Superior Council of Magistracy in late 2017.

*Integrated border, migration management and asylum.* In December 2015, the Border Police approved a plan to handle potential migration flows linked to the refugee crisis that hit Europe in that year. The relevant Moldovan authorities participated in the ‘Fighting irregular migration’ project during 2013–15. This was financed by the EU (€1.2 million), within the programme for supporting Moldova’s implementation of the VLAP. In November 2017, the EU decided to allocate budgetary assistance of €21.5 million, including for the implementation of VLAP. In the EU Council Conclusions of 26 February 2018,\(^{17}\) the EU emphasised the need to pay special attention to the further implementation of the anti-corruption and anti-money laundering measures foreseen in VLAP.

A National Strategy concerning migration and asylum for 2011–20 is currently being implemented with the aim of ensuring a comprehensive management of migration and asylum processes and harmonisation with relevant international and European legislation, including a better regulation of migration flows. The Strategy for employment of 2017–21 requires the authorities to facilitate the integration of immigrants into the labour market. Their number doubled to 4,204 persons between 2009 and 2014, but the number of work permits issued to foreign citizens (11,000 persons) decreased by a quarter in 2014 compared with 2009. In 2020,

\(^{15}\) Opinion of Maria Michaelidou and Nevena Ruzić, experts of the Council of Europe, on the compliance with the CoE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) and other European standards.

\(^{16}\) See https://bit.ly/2SX6q8c.

\(^{17}\) EU Council Conclusions, 28 February 2018, see https://bit.ly/3ysM3QL.
Moldova hosted about 20,000 immigrants with permanent and provisional work permits from 119 states. The government discussed in early 2020 the necessity to simplify the procedures for attracting foreign labour as part of the 2020-2023 programme of actions (red tape for work permits, employment conditions etc.).

The EU’s Third Report on the Visa Suspension Mechanism of July 2020 shows that the number of entry refusals of Moldovan citizens and of illegal stays has risen to 7,940 and 16,540 cases respectively in 2019, compared with 4,660 and 7,660 cases in 2017. Asylum applications also grew substantially in 2019, to 3,675 applications from the 3,830 cases lodged in 2017. In the first nine months of 2020, the EU returned more than 500 Moldovan citizens, based on the 2007 EU-Moldova readmission agreement.

**Public order and security.** The authorities have undertaken measures to increase the institutional and operational capacities of the Ministry of the Interior, at the central and local levels. These measures focus on operational and strategic planning, risk assessment, interinstitutional cooperation and digitisation of activities related to fighting criminality and ensuring public order, trans-border cooperation, etc. Cooperation agreements have been signed between the General Prosecutor’s Office and Eurojust, the Ministry of Internal Affairs and Europol, the NAC and the European Anti-fraud Office (OLAF). Moreover, there are various bilateral agreements between Moldovan law enforcement and prosecution institutions and their EU member state counterparts.

As noted in Chapter 3 on foreign and security policy, the EU Border Assistance Mission (EUBAM) to Moldova and Ukraine oversees the segment between the Moldovan separatist territory of Transnistria, which borders Ukraine to the north and Moldova to the south. The EUBAM provides technical assistance and expertise on border and customs, as part of the implementation of the Risk Management Strategy of the Customs Service for 2018-20 and of the National Integrated Border Management Strategy 2018-23.¹⁸

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Rule of law and movement of people at a glance

Reform of the justice system is failing to enhance the integrity of the judges, but it has improved some technical aspects of the justice system. An effective anti-corruption policy is universally considered a prerequisite for the overall success of the Association Agreement and Moldova’s economic future.

The Prosecutor’s Office remains one of the most controversial anti-corruption institutions. To overcome the existing mistrust, this Office needs to deliver on the high-level cases, such as the banking fraud, and also make systemic changes in its specialised divisions that have fallen under political and criminal influence in the past decade.

Moldova’s aim of obtaining visa-free access for its citizens to the EU was achieved from April 2014. More than half the population possesses biometric passports and can travel freely to Schengen countries, including at least 20% of the citizens of the Transnistrian region.

Border management is a matter of strategic significance for Moldova. The EU contributes to it through the Border Assistance Mission (EUBAM).
The Association Agreement aims to facilitate the gradual alignment of Moldova’s foreign, security and defence policies with those of the EU at bilateral, regional and multilateral levels. These include areas covered by the EU’s Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP).

The CFSP encompasses issues related to the strategic interests and objectives of the EU, the joint actions and common positions adopted by the Union and the procedures for implementing these actions and positions. The CSDP may undertake a wide range of tasks, including humanitarian, conflict prevention and peacekeeping tasks, the deployment of combat forces in crisis management, disarmament operations and post-conflict stabilisation.

Conflict diplomacy. The parties aim to work together for the peaceful resolution of regional conflicts and reaffirm their commitment to the international canons of sovereignty, territorial integrity and the inviolability of borders in accordance with the Charter of the United Nations and the Helsinki Final Act of 1975. The Association Agreement restates the need for a sustainable solution of the Transnistrian conflict within Moldova’s territorial integrity and sovereignty, as well as the imperative of post-conflict rehabilitation.

Moldovan sensitivities. Moldova has consistently shown support for the EU’s CFSP/CSDP, while shaping its own position on sensitive matters of foreign policy. The share of Moldova’s
aligning with the EU declarations and Council decisions went down slightly to 68% in 2019, compared with 71% in 2016 and 75% in 2015.¹ The country maintains its opposition to the recognition of Kosovo’s independence, bearing in mind the unresolved Transnistrian issue. Moldova has abstained from approving the EU’s economic sanctions targeting Russia (banks, energy companies and defence enterprises). It has also refrained from supporting the visa bans on Russian officials regarded as linked to the annexation of Crimea and the destabilisation of the eastern Donbas region of Ukraine. The Moldovan authorities did agree to join the travel bans and asset-freeze sanctions against certain Ukrainian officials. Russian sanctions against Moldovan agri-food goods largely remained in place, except for the access to the Russian market offered to fruit and vegetable producers from pro-Russian territories, the Transnistrian region and the Gagauzian autonomy, as well as from administrative units that traditionally vote for pro-Russian parties. There were up to 50 such companies as of December 2020.

During the presidency of the Eurosceptic President Igor Dodon, in the period 2016-2020, relations with Russia were prioritised. Although having in principle only ceremonial competences in foreign affairs, in 2017 Igor Dodon signed a Memorandum of Cooperation with the Eurasian Economic Commission, and one year later obtained observer status for the country in the Eurasian Economic Union. He attempted to combine cooperation with the EU with a dialogue with the Eurasian Union and a strategic partnership with Russia. One of his declared political goals is to review the Association Agreement in the parts related to foreign and security policy and trade liberalisation, invoking the neutrality status of Moldova and the need to protect the local producers respectively. Nevertheless, these plans did not materialise. Maia Sandu, who won the presidential elections in December 2020, has promised to strengthen the dialogue with the EU and neighbouring Romania and Ukraine, taking the country out of “external isolation”.² In parallel, she is resolved to set up

² Electoral programme of the new president Maia Sandu, see https://maiasandu2020.md/program/.
pragmatic, and mutually respectful, relations with Russia to solve the issues of trade, Moldovan migrants’ rights and advance the settlement of the Transnistrian conflict.

**EU Border Assistance Mission (EUBAM).** The EU is continuing the EUBAM efforts in Moldova and Ukraine launched in 2005. Its mandate has been extended six times; the latest one runs until 30 November 2023. EUBAM provides assistance to Moldova and Ukraine in dealing with security issues related to the movement of people and goods across the Transnistrian segment of the Moldovan–Ukrainian border. The mission supports the Moldovan Customs Service in implementing the trade provisions of the Agreement regarding the elimination of customs duties and taxes, customs and trade facilitation, administration of tariff quotas, legal approximation in the customs area, and issues related to rules of origin. The mission’s activity includes combating illegal cross-border movements, with the broader aim of also contributing to the peaceful settlement of the Transnistrian conflict.

EUBAM is headquartered in Odesa (Ukraine), has an office in Moldova and five field offices – two on the Moldovan side of the joint border and three on the Ukrainian side. It plans to open an office at Chișinău Airport. With a biennial budget of around €15 million (for 2015–17), EUBAM employed about 169 staff members of which 106 were from Moldova and Ukraine. EUBAM is an advisory and technical body that operates along the 1,222 km border (955 km of land and 267 km of river borders) between Moldova and Ukraine. Moldova’s breakaway Transnistria region accounts for 453 km of the same border, where EUBAM is also active.

EUBAM assists Moldovan–Ukrainian cooperation on issues such as border demarcation, joint border patrolling, and jointly operated border-crossing points, rail traffic, trade facilitation and the common border assessment report. EUBAM has observer status at the new jointly operated border-crossing point at Palanca-Mayaki-Udobnoe between Moldova and Ukraine, approved in 2017 and launched in November 2019. The establishment of the latter, and other joint crossing points, is supported financially by the EU, as part of the work of the EUBAM-Moldova-Ukraine Advisory

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3 EUBAM Activity Report for 1 December 2015 to 30 November April 2016.
Such mechanisms of joint control allow the speeding up of checks at the crossing points for transportation of goods and people between the two countries. Under the Eastern Partnership’s (EaP) Integrated Border Management Flagship Initiative, the two other jointly operated Moldova-Ukraine crossing points are established at Kuchurgan-Pervomaisk (functional since 2017) and Reni-Giurgiulești. The EU allocated about €10 million to these projects in 2018-20.5

EUBAM carries out border control checks on trains, and an assessment of the regulations governing railway border-crossing points. It facilitates the establishment of an automated exchange of border-crossing data on people and vehicles that cross the Moldovan-Ukrainian border, including the Transnistrian segment. It provides recommendations to solve problems in the transport field (freight train movement, licence issuance and vehicle insurance requirements, and the registration of Transnistrian vehicles).

The mission participates in trilateral meetings together with Moldovan and Ukrainian authorities on the assessment of common border security. The highest risks at the border are considered to be the smuggling of cigarettes, alcohol and ethanol, while prevention of weapons, ammunition and explosives smuggling is a top priority. Together with the Swedish Police, EUBAM runs a project that aims to enhance the operational capacities of the Bureau for Migration and Asylum on preventing and combating illegal migration and trafficking of human beings. EUBAM cooperates with the FRONTEX and the European Anti-fraud Office (OLAF) agencies on monitoring the smuggling of tobacco, movement of firearms, nuclear materials and the like in the region.

The Transnistrian conflict settlement is one of the main priorities of the EUBAM. It participates in the ‘5+2’ framework,6 taking part in Working Groups related to road and rail and road transportation, and customs and law enforcement. The assistance offered by the Mission includes various aspects: advisory work

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4 Derived from the press release of the State Border Guard Service of Ukraine, see https://bit.ly/3f0QeeS.
5 EUBAM, 26 January 2018, see https://bit.ly/3wmzX9K.
6 The ‘5’ comprise Russia, the US, Ukraine, the EU and OSCE; the ‘2’ comprise Chișinău and Tiraspol.
regarding the free movement of people and goods across the Transnistrian region towards Ukraine; boosting the dialogue between Chişinău and Tiraspol on transport and customs, trade and law enforcement; helping to settle border problems; and monitoring respect for human rights and European border control standards.

As of 1 January 2016, the Transnistrian region joined the DCFTA free trade area (see Chapter 4), and the EUBAM mission contributed to this positive development by helping to build up the technical aspects of border controls, as well as through broader confidence-building efforts. EUBAM monitors the harmonisation of the Transnistrian side with the provisions on customs duties on goods imported from the EU, which should be entirely abolished. By December 2020, the region has adjusted the Customs Code and Customs Tariff allowing the abolition of the majority of the customs duties. Consequently, there are 50 tariff codes where the duties will still apply in 2021.7

**Moldova in CSDP operations elsewhere.** Under the terms of the Association Agreement, Moldova and the EU have committed themselves to enhancing their cooperation in crisis management. In particular, the Agreement encourages the improvement of Moldova’s military capabilities, Moldova’s greater participation in EU-led crisis management operations and, on a case-by-case basis, in training missions conducted under the CSDP. In April 2017, the EU and Moldova signed an agreement on security procedures for the CSDP-related exchange of classified information, which entered into force in January 2018 and requires additional technical procedures to be implemented. It has a complementary role to the framework agreement for Moldova’s participation in EU crisis management operations of 1 July 2013. Currently, Moldova contributes to the EU Training Mission in Mali by providing human rights-related assistance (two persons).

**International Criminal Court.** The Association Agreement reaffirms that the prosecution of the most serious crimes, such as genocide, war crimes and crimes against humanity, should take place at both the national and international levels. To this end, the Agreement promotes the implementation of the 1998 Rome Statute of the International Criminal Court, which Moldova ratified in 2010.

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Moldova adopted a law in 2016 clarifying its provisions for implementation of the UN Security Council Resolutions.

**Weapons of mass destruction and disarmament.** Moldova and the EU have agreed to advance the non-proliferation of weapons of mass destruction, through the ratification and implementation of the relevant international instruments. They have also agreed to advance their effective control and cooperation to combat the illegal arms trade (in line with Council Common Position 2008/944/CFSP of 8 December 2008) and to fight international terrorism (in line with, inter alia, the framework UN Security Resolution 1373 of 2001). Moldova has drafted the National Strategy for Weapons of Mass Destruction (chemical, biological, radiological and nuclear) and the Action Plan for 2018-2025, but has not adopted it yet.\(^8\)

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**Foreign and security policy at a glance**

*The Transnistrian conflict and the role of Russia continue to shape the foreign and security aspects of EU–Moldova cooperation.*

*The alignment by Moldova with the EU on CFSP matters went below 70%, with careful calibration of its position on Russia-related issues, such as EU sanctions. Maia Sandu, the successor of President Dodon, is keen to recalibrate the foreign policy agenda by forging ties with the EU and its neighbours, and building pragmatic relations with Russia.*

*The most significant operational programme is the EU Border Assistance Mission (EUBAM), which facilitates practical cooperation over the borders of Moldova and Ukraine with the Transnistrian region, while contributing to the broader objective of settling the conflict and eradicating cross-border illegal activities.*

*EUBAM contributes to the professionalisation of border-control personnel of Moldova and Ukraine and is involved in upgrading the common Ukraine-Moldova crossing points.*

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PART II.
DEEP AND COMPREHENSIVE FREE TRADE AREA
4. Market access for goods

Tariff liberalisation is the basic starting point for creating a free trade area. Since the start of the provisional application of the Deep and Comprehensive Free Trade Area (DCFTA) on 1 September 2014, the EU has liberalised imports from Moldova for almost all goods, with only a limited number of exceptions in agricultural products. Liberalisation by Moldova is subject to transitional periods.

Provisions of the Agreement

Before analysing the provisions of the DCFTA, it should be noted that the EU unilaterally liberalised a part of its trade with Moldova as early as 2008 through autonomous trade preferences (ATP). Initially ATP only covered industrial goods, but after Russia’s import ban on several Moldovan agricultural products, the EU amended its ATP in 2013 and 2014 to extend duty-free treatment to Moldovan wine and to grant duty-free quotas for apples, plums and table grapes. The ATP applied until 31 December 2015, in order to make it easier for business to adapt during the transition period between the autonomous preferences and the DCFTA.¹

The DCFTA has established a free trade area for trade in goods since the start of the provisional application of the EU–Moldova Association Agreement from 1 September 2014.

For industrial goods, the DCFTA provides for asymmetric trade liberalisation: the EU will immediately and fully abolish import duties on all Moldovan industrial products, whereas Moldova will open its market for several products only after a transition period of three to five years. Moldova will gradually phase out its tariffs for certain types of plastics and related products, and for furniture and several textile products such as carpets and clothing. This should give Moldovan exporters the time to prepare for competition from the EU.

For agricultural products, the parties will not fully liberalise trade. Although the EU will immediately liberalise access to its market for most Moldovan agricultural imports, it will still impose tariff rate quotas (TRQs) on a limited number of sensitive products (Table 4.1). The most favoured nation (MFN) customs duty will apply to imports exceeding the TRQs. Moreover, for the types of fruits and vegetables subject to entry prices in the EU (e.g. tomatoes, courgettes and peaches), Moldova will still have to pay an import duty, with the exemption of the ad valorem component of that import duty.

Table 4.1 Moldovan products subject to annual duty-free TRQs for import into the EU

<table>
<thead>
<tr>
<th>Product description</th>
<th>Volume (tonnes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tomatoes, fresh or chilled</td>
<td>2,000</td>
</tr>
<tr>
<td>Garlic, fresh or chilled</td>
<td>220</td>
</tr>
<tr>
<td>Table grapes, fresh</td>
<td>10,000</td>
</tr>
<tr>
<td>Apples, fresh</td>
<td>40,000</td>
</tr>
<tr>
<td>Plums, fresh</td>
<td>10,000</td>
</tr>
<tr>
<td>Grape juice</td>
<td>500</td>
</tr>
</tbody>
</table>

For a large group of agricultural products, listed in Annex XV-C (including pig and poultry meat, and dairy products), the EU may apply an ‘anti-circumvention mechanism’. This defines for each category of products an average annual volume of imports (i.e. a ‘trigger level’). If imports from Moldova into the EU reach 70% of this trigger level in a given year, the EU must notify Moldova about
the volume of imports of the products concerned. If 80% of the trigger volume is reached, Moldova is obliged to provide the EU with a sound justification of the increase of imports. Only when 100% of the trigger volume is reached may the EU temporarily suspend the preferential treatment of the products concerned, for a period of six months.

Unlike the EU, Moldova will only liberalise most of its agricultural products after a transitional period over a maximum period of ten years (e.g. dairy products, meat products and wines). Moreover, Moldova will only partially liberalise trade for sensitive products such as pigment, poultry meat, processed meat products, sugar and sweeteners through TRQs.

**Accelerating tariff liberalisation.** The DCFTA includes a ‘rendez-vous clause’ which enables the Trade Committee (under the Association Council) to accelerate the elimination of customs duties by a joint decision. The EU and Moldova agreed in 2019 to use this procedure to increase the volume of some agricultural products subject to annual TRQs. Moldova will be granted additional duty-free TRQs to export table grapes (of double the current amount) and plums (of a 50% increase on the current volume), as well as a new duty-free quota for cherries (of 1,500 tonnes). EU producers will also have more export opportunities, as Moldova will increase its TRQs for pork, poultry, dairy and sugar. Moreover, the thresholds triggering the anti-circumvention mechanism for wheat, barley, maize, sugar and processed cereals have also been raised, taking into account the trade patterns over the past few years. The decision was adopted by the Trade Committee in January 2020.3

The DCFTA also prohibits export duties and includes a standstill clause stating that neither party may increase any existing customs duty or adopt any new customs duty on goods originating in the territory of the other party. Quantitative restrictions on imports and exports are also prohibited by the DCFTA, except if allowed by the relevant World Trade Organization (WTO) rules (i.e. Art. XI GATT).

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2 Article 147.
3 Decision No 1/2020 of the EU-Republic of Moldova Association Committee in Trade Configuration of 23 January 2020 concerning the update of Annex XV (Elimination of customs duties) to the Association Agreement between the EU and Moldova.
Detailed rules of origin are laid down in Protocol I of the Association Agreement. These rules specify when a product is wholly obtained in the territory of one of the parties or when products have undergone “sufficient working or processing” in order to obtain the movement certificate ‘EUR 1’. An annex to the protocol defines four different criteria for sufficient processing for each product (i.e. tariff heading): i) a change of tariff heading (e.g. a screw will be considered as originating in Moldova if it is made from imported materials of any other heading); ii) a minimum value added (e.g. for passenger cars, the value of all the non-originating materials used to manufacture the car may not exceed 40% of the total value of the product); iii) specific processing or working requirements; or iv) a combination of the first three requirements.

As further explained in Chapter 6 (Customs), after Moldova joined the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (PEM Convention) in 2015, the rules of origin included in Protocol 1 were replaced by the rules of origin of the PEM Convention. The system of pan-Euro-Mediterranean cumulation of origin allows for the application of diagonal cumulation between the EU, European Free Trade Association (EFTA) states, Turkey, the countries that signed the Barcelona Declaration, the Western Balkans and several Eastern Partnership countries.

Implications for Moldova

The first six years of DCFTA implementation were marked by serious economic and political problems that affected domestic demand and business confidence, with consequences for trade and investment activities. Moreover, these were underscored by adverse developments from Russia, which is also an important trading partner for Moldova. Most recently, the pandemic triggered by the Covid-19 virus aggravated the situation. In the first seven months of 2020, both exports and imports decreased significantly, by about 12.8% and 12.6% respectively, compared to the same period of the previous year, and the most affected being trade flows with EU. All

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4 Decision No 1/2016 of the EU-Moldova Customs Sub-Committee of 6 October 2016.
these factors certainly distort the general outcome of the first years of DCFTA implementation.

As a result, total exports of Moldova decreased significantly in 2015 and 2016 compared with 2014, although they were rehabilitated in the following years, reaching a historical maximum in 2019. This exceeded the 2014 level by 18.8%, as shown in Table 4.2. The decline in exports was largely attributable to the big fall in Russian imports, whereas exports to the EU held to a more or less stable level. The generally adverse economic conditions were aggravated by multiple Russian bans on goods from Moldova, imposed in the aftermath of the signing of the AA with EU in 2014. Other Eastern Partnership countries, such as Belarus, also reduced their demand for imported goods as they encountered difficulties in selling their own production.

Table 4.2 Trade turnover between Moldova and the EU ($ million)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total turnover</td>
<td>7,656</td>
<td>5,954</td>
<td>6,065</td>
<td>7,257</td>
<td>8,466</td>
<td>8,622</td>
</tr>
<tr>
<td>Turnover, EU</td>
<td>3,814</td>
<td>3,172</td>
<td>3,306</td>
<td>3,986</td>
<td>4,713</td>
<td>4,721</td>
</tr>
<tr>
<td>Growth (%)</td>
<td>5.7</td>
<td>-16.8</td>
<td>4.2</td>
<td>20.6</td>
<td>18.2</td>
<td>0.2</td>
</tr>
<tr>
<td>Share (%)</td>
<td>49.8</td>
<td>53.3</td>
<td>54.5</td>
<td>54.9</td>
<td>55.7</td>
<td>54.8</td>
</tr>
<tr>
<td>Total exports</td>
<td>2,340</td>
<td>1,967</td>
<td>2,045</td>
<td>2,425</td>
<td>2,706</td>
<td>2,779</td>
</tr>
<tr>
<td>Exports to the EU</td>
<td>1,246</td>
<td>1,218</td>
<td>1,332</td>
<td>1,597</td>
<td>1,862</td>
<td>1,831</td>
</tr>
<tr>
<td>Growth (%)</td>
<td>9.6</td>
<td>-2.2</td>
<td>9.4</td>
<td>19.9</td>
<td>16.6</td>
<td>-1.7</td>
</tr>
<tr>
<td>Share (%)</td>
<td>53.3</td>
<td>61.9</td>
<td>65.1</td>
<td>65.9</td>
<td>68.8</td>
<td>65.9</td>
</tr>
<tr>
<td>Total imports</td>
<td>5,317</td>
<td>3,987</td>
<td>4,020</td>
<td>4,831</td>
<td>5,760</td>
<td>5,842</td>
</tr>
<tr>
<td>Imports from the EU</td>
<td>2,568</td>
<td>1,954</td>
<td>1,974</td>
<td>2,389</td>
<td>2,851</td>
<td>2,890</td>
</tr>
<tr>
<td>Growth (%)</td>
<td>3.9</td>
<td>-23.9</td>
<td>1.0</td>
<td>21.0</td>
<td>19.3</td>
<td>1.4</td>
</tr>
<tr>
<td>Share (%)</td>
<td>48.3</td>
<td>49.0</td>
<td>49.1</td>
<td>49.5</td>
<td>49.5</td>
<td>49.5</td>
</tr>
<tr>
<td>Balance with the EU</td>
<td>-1,322</td>
<td>-736</td>
<td>-642</td>
<td>-792</td>
<td>-989</td>
<td>-1059</td>
</tr>
</tbody>
</table>

Initially, the evolution of Moldovan exports to the EU market can be assessed as satisfactory, except for the decrease of 2.2% in 2015, while exports to other destinations declined much more sharply. In the following years exports to the EU have steadily
increased, compensating for the reduction of exports to other destinations (mainly to Commonwealth of Independent States (CIS) countries, in particular to Russia) (see Tables 4.2 and 4.3). Moreover, exporters of agri-food products, the area in which the DCFTA impact is expected to be the highest, increased by 34.2% in 2019, compared with 2014. Thus, the elimination of tariff barriers had some significant and immediate positive effects on Moldovan exports to the EU.

Table 4.3 Exports of Moldova to the EU that increased and decreased the most ($ million)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total exports</td>
<td>1,246</td>
<td>1,218</td>
<td>1,332</td>
<td>1,597</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Machinery and appliances</td>
<td>254</td>
<td>247</td>
<td>259</td>
<td>344</td>
<td>526</td>
<td>577</td>
<td>50.4</td>
</tr>
<tr>
<td>Prepared foodstuffs</td>
<td>112</td>
<td>102</td>
<td>149</td>
<td>167</td>
<td>144</td>
<td>154</td>
<td>10.7</td>
</tr>
<tr>
<td>Animal or vegetable fats, oils</td>
<td>73</td>
<td>68</td>
<td>37</td>
<td>47</td>
<td>58</td>
<td>67</td>
<td>8.6</td>
</tr>
<tr>
<td>Plastics, rubber products</td>
<td>16</td>
<td>12</td>
<td>13</td>
<td>16</td>
<td>24</td>
<td>29</td>
<td>4.3</td>
</tr>
<tr>
<td>Wood, charcoal, cork</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>16</td>
<td>19</td>
<td>2.5</td>
</tr>
<tr>
<td>Transport equipment</td>
<td>6</td>
<td>6</td>
<td>18</td>
<td>20</td>
<td>18</td>
<td>19</td>
<td>1.1</td>
</tr>
<tr>
<td>Live animals and products</td>
<td>9</td>
<td>9</td>
<td>8</td>
<td>13</td>
<td>11</td>
<td>11</td>
<td>0.4</td>
</tr>
<tr>
<td>Footwear, headwear</td>
<td>29</td>
<td>21</td>
<td>25</td>
<td>28</td>
<td>32</td>
<td>32</td>
<td>-0.2</td>
</tr>
<tr>
<td>Base metals and articles</td>
<td>30</td>
<td>23</td>
<td>19</td>
<td>27</td>
<td>32</td>
<td>31</td>
<td>-0.8</td>
</tr>
<tr>
<td>Instruments</td>
<td>19</td>
<td>16</td>
<td>19</td>
<td>18</td>
<td>17</td>
<td>16</td>
<td>-1.4</td>
</tr>
<tr>
<td>Raw skins</td>
<td>33</td>
<td>24</td>
<td>22</td>
<td>19</td>
<td>20</td>
<td>18</td>
<td>-2.3</td>
</tr>
<tr>
<td>Articles of stone, glass</td>
<td>28</td>
<td>29</td>
<td>37</td>
<td>34</td>
<td>48</td>
<td>46</td>
<td>-2.5</td>
</tr>
<tr>
<td>Chemicals</td>
<td>15</td>
<td>14</td>
<td>11</td>
<td>13</td>
<td>16</td>
<td>13</td>
<td>-3.3</td>
</tr>
<tr>
<td>Miscellaneous manufactures</td>
<td>97</td>
<td>95</td>
<td>123</td>
<td>141</td>
<td>165</td>
<td>158</td>
<td>-6.8</td>
</tr>
<tr>
<td>Textiles and textile products</td>
<td>246</td>
<td>220</td>
<td>229</td>
<td>263</td>
<td>298</td>
<td>268</td>
<td>-29.6</td>
</tr>
<tr>
<td>Vegetable products</td>
<td>248</td>
<td>309</td>
<td>343</td>
<td>422</td>
<td>422</td>
<td>360</td>
<td>-62.1</td>
</tr>
</tbody>
</table>
The export of products subject to annual duty-free TRQs increased immediately after the start of the DCFTA’s implementation. Thus, in 2019, the increase was up to seven times for goods such as grapes, plums, wheat, maize, barley and ethyl alcohol. For this reason, at the request of the Moldovan side, the Trade Committee adopted a Decision in January 2020 about increasing the quantities subject to annual duty-free TRQs (see above). Moreover, the trigger levels were also adjusted for the anti-circumvention mechanism.

However, the tariff-free quotas are still far from being exhausted and the major barrier in this context is the non-compliance with EU sanitary and phytosanitary standards that would ensure access to the EU market for meat, eggs and dairy.

The geographical structure of Moldovan exports has changed, with the EU partners now the destination for 66% of the total (Table 4.4). While this change reflects an arithmetic result of both positive trends in relation to the EU and negative ones in relation to Russia, the overall strengthening of the EU’s position as a destination for Moldovan exports is very important. Moldova needs predictable trade partners that follow the rules of international trade.

Table 4.4 Moldova’s trade structure by country or region, 2013 and 2019

<table>
<thead>
<tr>
<th></th>
<th>2013 Exports, %</th>
<th>2013 Imports, %</th>
<th>2019 Exports, %</th>
<th>2019 Imports, %</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU</td>
<td>46.8</td>
<td>45.0</td>
<td>65.9</td>
<td>49.5</td>
</tr>
<tr>
<td>Russia</td>
<td>26.0</td>
<td>14.3</td>
<td>9.0</td>
<td>11.9</td>
</tr>
<tr>
<td>Other CIS</td>
<td>12.0</td>
<td>16.1</td>
<td>6.7</td>
<td>12.4</td>
</tr>
<tr>
<td>US</td>
<td>1.0</td>
<td>1.3</td>
<td>0.9</td>
<td>1.3</td>
</tr>
<tr>
<td>China</td>
<td>0.3</td>
<td>8.7</td>
<td>0.6</td>
<td>10.3</td>
</tr>
<tr>
<td>Rest of world</td>
<td>13.8</td>
<td>14.5</td>
<td>17.0</td>
<td>14.7</td>
</tr>
</tbody>
</table>

5 Decision No 1/2020 of the EU-Republic of Moldova Association Committee in Trade Configuration of 23 January 2020 concerning the update of Annex XV (Elimination of customs duties) to the Association Agreement between the EU and Moldova.
Meanwhile, the main goods exported by Moldova to the EU are machinery and appliances, textiles, vegetable products and other foodstuffs and beverages (see Table 4.5).

**Table 4.5 Main EU imports from, and exports to, Moldova, 2019**

<table>
<thead>
<tr>
<th>HS</th>
<th>Product</th>
<th>Moldovan exports to the EU</th>
<th>Moldovan imports from the EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-IV</td>
<td>Animal and food products</td>
<td>€ mn</td>
<td>% of total</td>
</tr>
<tr>
<td>I</td>
<td>- live animals, fish, dairy, eggs</td>
<td>529</td>
<td>32.4</td>
</tr>
<tr>
<td></td>
<td>- fresh nuts, fruit, vegetables, cereals</td>
<td>321</td>
<td>19.7</td>
</tr>
<tr>
<td>II</td>
<td>- animal, vegetable fats, oils</td>
<td>60</td>
<td>3.6</td>
</tr>
<tr>
<td></td>
<td>- processed foodstuffs, beverages</td>
<td>138</td>
<td>8.4</td>
</tr>
<tr>
<td>V</td>
<td>Mineral products</td>
<td>5</td>
<td>0.3</td>
</tr>
<tr>
<td>VI</td>
<td>Chemicals, pharmaceuticals</td>
<td>11</td>
<td>0.7</td>
</tr>
<tr>
<td>VII</td>
<td>Plastics, rubber and products</td>
<td>26</td>
<td>1.6</td>
</tr>
<tr>
<td>VIII</td>
<td>Raw hides, skins and saddlery</td>
<td>16</td>
<td>1.0</td>
</tr>
<tr>
<td>IX</td>
<td>Wood, charcoal, cork and products</td>
<td>17</td>
<td>1.0</td>
</tr>
<tr>
<td>X</td>
<td>Paper, wood pulp, paper products</td>
<td>7</td>
<td>0.4</td>
</tr>
<tr>
<td>XI</td>
<td>Textiles and textile products</td>
<td>240</td>
<td>14.7</td>
</tr>
<tr>
<td>XII</td>
<td>Footwear, headwear</td>
<td>29</td>
<td>1.8</td>
</tr>
<tr>
<td>XIII</td>
<td>Items of stone, glass, ceramics</td>
<td>41</td>
<td>2.5</td>
</tr>
<tr>
<td>XIV</td>
<td>Pearls, precious stones, jewellery</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>XV</td>
<td>Base metals and articles thereof</td>
<td>28</td>
<td>1.7</td>
</tr>
<tr>
<td>XVI</td>
<td>Machinery and appliances</td>
<td>515</td>
<td>31.5</td>
</tr>
<tr>
<td></td>
<td>- machinery, boilers, etc.</td>
<td>20</td>
<td>1.2</td>
</tr>
<tr>
<td></td>
<td>- electrical, electronic equipment</td>
<td>495</td>
<td>30.3</td>
</tr>
<tr>
<td>XVII</td>
<td>Transport equipment, autos</td>
<td>17</td>
<td>1.0</td>
</tr>
<tr>
<td>XVIII</td>
<td>Scientific, other instruments</td>
<td>14</td>
<td>0.9</td>
</tr>
<tr>
<td>XIX</td>
<td>Arms and ammunition</td>
<td>141</td>
<td>8.6</td>
</tr>
<tr>
<td>XX</td>
<td>Miscellaneous manufactured items</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td><strong>1635</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

*Source: WTO trade statistics. Note: HS stands for the Harmonised System of trade nomenclature.*
Rules of origin. The Regional Convention on PEM preferential rules of origin (PEM), established in 2012, provides for ‘diagonal cumulation’ of value added for the purpose of establishing the origin of goods that can profit from free trade agreements (FTAs) with the EU. The PEM was originally signed by the EU together with all the Balkan countries and those of the EFTA, Turkey and southern Mediterranean countries that have concluded FTAs with the EU. The diagonal cumulation means that any value added in the chain of production of intermediate goods in any of the PEM countries may be added together to meet the EU’s rules of origin requirements.

Art. 5 of the PEM Convention provides the possibility for third countries to request accession, as long as they have an FTA with the EU. In accordance with this provision, Moldova submitted a request for accession in June 2013. In September 2015, after concluding all internal procedures, the PEM Convention entered into force for Moldova.

The PEM mechanism is of considerable economic interest for Moldova, since it opens the opportunity to develop supply-chain linkages with nearby countries, including Turkey and the Balkans, which can benefit from diagonal cumulation, in addition to the possibilities for bilateral cumulation with Romania and other EU member states. This especially concerns future investment and new trade structures that can develop as a result of the DCFTA and PEM combined. Given the small size of the Moldovan economy and its proximity to the EU, Turkey and the Balkans, this overall system has a very good fit with Moldova’s interests. Moreover, Moldova ratified an FTA with Turkey on 31 March 2016, which entered into force on 1 November 2016.

However, local companies are not applying diagonal cumulation at the moment. One of the reasons could be the lack of familiarisation with the economic benefits of the PEM Convention.

Transnistrian region. The EU is a crucial export market for Transnistrian exporters. The region has benefited from the asymmetric trade liberalisation that the EU has granted to Moldova since 2006 within various preferential trade regimes (GSP, GSP plus and ATP). During this period, the share of the EU in the region’s

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total exports increased from 20% in 2005 to 27% in 2019. Meanwhile, the share of Russia in the region’s total exports shrunk from 40% in 2005 to just 13% in 2019. The scarcity of statistical data from the region makes a more detailed analysis impossible.

Until 31 December 2015, the EU extended to the Transnistrian region the same regime of preferences (ATP) that it had granted to Moldova. But when this was replaced by the DCFTA for Moldova, the ATP regime for Transnistria had also to come to an end. For this reason, negotiations were engaged between Chișinău, Tiraspol and the European Commission over Transnistria’s possible accession to the DCFTA as well. Without this, the EU would cancel its trade preferences for Transnistria and apply its regular (MFN) import tariffs regime to goods originating from the Transnistrian region. This would severely hit Transnistrian exporters and undermine the already shaky economic and social conditions in the region. While there had been fruitless conversations for some time between the parties over what to do when the DCFTA entered into force, an agreement was made at the last minute for Transnistria to join the DCFTA on 1 January 2016 under special conditions.

The formal decision of the EU–Moldova Association Council gives only very limited information on how it will be applied, notably that Title V of the Association Agreement (the DCFTA) will apply to the “entire territory” of the Republic of Moldova, meaning including Transnistria, and that its application will be reviewed after 10 months, and thereafter once a year. Although this Decision was made public, the conditionalities formulated by the EU are in the underlying ‘non-paper’ named “Measures for Facilitating the Transnistrian Region’s Trade with the EU”. The document was signed between Chisinau and Tiraspol, with the facilitation of the EU. The main point of these arrangements for Transnistria is that EU tariffs are scrapped immediately, as for the rest of Moldova. Conditions that Transnistria has to meet presumably include the dismantling of tariffs on imports from the EU on the same schedule as for the rest of Moldova, and also for procedures for issuing certificates of origin, customs clearance, technical and sanitary and phytosanitary standards, competition policy, public procurement

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and fiscal policy. The review clauses underline the concerns of the EU and Chișinău that Tiraspol should deliver on its commitments. A technical agreement allowing cooperation between specialised bodies of Chisinau and Tiraspol for collaboration on SPS issues (in particular veterinary, quarantine and plants’ protection, etc.) was signed in February 2018. Also, the establishment of an institutional cooperation mechanism regarding technical barriers to trade (TBT) is a tackled subject. However, the detailed progress and the monitoring of the Transnistrian region’s compliance with the conditions are under a certain level of secrecy.

Beyond these technicalities, the agreement for the DCFTA to be applied to the “entire territory” of Moldova is of considerable political significance in relation to objectives for a progressive reunification of the country. It can also contribute to the weakening of economic links of Transnistria with Russia.

**Market access for goods at a glance**

*While the benefits of the DCFTA can only be fully realised in the medium and long term, after six years some positive results have already appeared for trade in goods between Moldova and the EU.*

*The EU and Moldova agreed in 2019 to some acceleration of trade liberalisation for agri-food products.*

*Moldova still needs to ensure a friendlier business climate, eliminate technical barriers to trade and comply with complex sanitary and phytosanitary standards of the EU. The PEM Convention benefits need to be popularised among the local businesses.*

*Reaching an agreement for the Transnistrian region also to be covered by the DCFTA as of 1 January 2016 has been a valuable step towards reunifying the country. However, the progress made in implementing the DCFTA in the region lacks transparency, thereby making it difficult to carry out a thorough assessment and make eventual adjustments and corrections.*
This chapter focuses on rules on ‘trade defence’ measures that the EU and Moldova can take against imports from the other party that causes or threatens to cause injury to the domestic industry, notably anti-dumping, anti-subsidy and safeguard measures. These DCFTA provisions essentially incorporate the relevant WTO rules.

**Anti-dumping and countervailing measures.** The DCFTA provisions on anti-dumping and countervailing measures rely on Art. VI of GATT (1994), the WTO Anti-Dumping Agreement and the WTO Agreement on Subsidies and Countervailing Measures. If a company exports a product at a price lower than the price it normally charges on its own home market, it is considered to be ‘dumping’ the product. The WTO agreement allows governments to act against dumping where there is a ‘material’ injury to the competing domestic industry. Before taking action, however, the government must be able to show that dumping is taking place, calculate the extent of the dumping (how much lower the export price is than the exporter’s home market price) and show that the dumping is causing injury or threatens to do so. The importing country may then impose a countervailing (provisional) duty to correct any damage to its industry.

The DCFTA adds specific features of the EU’s trade defence practice that go beyond the WTO agreements, such as the ‘public interest’ and the ‘lesser duty’ rules. The former implies that a party may decide not to impose anti-dumping or countervailing measures
when it is not in the public interest to do so, for example when the interests of consumers or the employment situation would be negatively affected. The lesser duty rule implies that the amount of a (provisional) anti-dumping duty shall not be higher than adequate to remove the injury in the domestic industry. This rule stresses the remedial rather than punitive character of the EU’s approach to trade defence.

The EU anti-dumping actions towards Moldova began with the approval of the Regulation (EC) No 760/2004 that extended the anti-dumping duty on imports of steel ropes and cables, including on imports from Moldova. This extension followed the previously introduced anti-dumping measures on imports from Ukraine, which attempted to circumvent the EU duty regime by exporting through Moldova. These measures were extended several times until their expiration in February 2017, as reported by the Commission’s Notice 2017/C41/05. Notably, the only producer of products subject to the mentioned anti-dumping measure is the Rîbnița Metallurgic Plant located in the Transnistrian region.

Safeguard measures. The DCFTA provides for both global safeguard measures and bilateral safeguard measures. The former relies on Art. XIX of GATT (1994) and the WTO Agreement on Safeguards. These rules regulate when and how WTO members may take a safeguard action (e.g. quantitative restrictions or duty increases higher than bound tariffs) to protect a specific domestic industry from an increase in imports of any product that is causing, or threatening to cause, serious injury to the industry. The key difference here, compared with the anti-dumping provisions, is that it does not require that an ‘unfair’ practice by particular supplying enterprises or countries be found. Correspondingly, the safeguard action has to be applied to all WTO member states, and the country imposing these measures may have to pay compensation to other members whose trade is affected. This largely explains why anti-dumping measures are used much more often than safeguard measures.

The bilateral safeguard measures allow the EU or Moldova to temporarily suspend DCFTA preferences in the case of their application resulting in an unexpected and significant increase of

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1 See https://bit.ly/3owi45Q.
imports that cause economic damage to the domestic industry of the importing party. It is possible to either suspend the further tariff liberalisation or to reintroduce the MFN customs duty rate. The key differences with the global safeguard measures are that: i) this procedure can only be used to protect the domestic industry from unexpected consequences of the DCFTA liberalisation, and thus only targets the goods from the other party (i.e. no MFN treatment), and ii) the duty may not exceed the MFN duty applied before the DCFTA.

**Trade remedies at a glance**

There are provisions for anti-dumping, anti-subsidy and safeguard measures to protect the importing economy from serious damage, or threats thereof, based on the relevant WTO rules.

None of these measures has had to be used so far, and trade remedies have rarely been used in EU–Moldovan trade relations since the signing of the Agreement.
6. CUSTOMS SERVICES

For the DCFTA to work well there have to be high-quality customs services at the frontiers, with efficient facilitation of traffic to avoid delays and check smuggling and corruption in the long queues of heavy goods vehicles. Key principles for customs legislation and procedures are needed to facilitate operational cooperation between the customs services of the EU and Moldova.

Provisions of the Agreement

This chapter discusses the core principles in the functioning of European customs services and the legislative commitments and numerous operational provisions contained in the Agreement.

Key principles for customs legislation and procedures. At a general level the EU and Moldova commit to ensuring that their customs legislation and procedures are stable, transparent, non-discriminatory, applied effectively and prevent fraud. They aim to reduce and simplify the data and documentation required by customs agencies.

At the legal or operationally precise level, the parties commit to undertake the following.

- To approximate Moldova’s customs code to that of the EU and establish modern transit conditions and cooperation between customs services (see detail below).
• To apply relevant international instruments, including those developed by the World Customs Organization and the revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures.

• To apply a single administrative document for customs declarations.

• To provide for advance binding rulings on tariff classification and rules of origin.

• To adopt rules that ensure that any penalties imposed for the breach of customs regulation or procedural requirements are proportionate and non-discriminatory.

• To provide effective and transparent procedures guaranteeing the right of appeal against customs’ and other agencies’ administrative actions, rulings and decisions.

• With regard to fees and charges imposed by customs authorities, Moldova has to prohibit administrative fees from having an equivalent effect to import or export duties. Moreover, fees and charges have to be transparent and made publicly available and should not exceed the cost of the service provided by the customs authority.

**Customs code.** Annex XXVI states that Moldova has to approximate to the Community Customs Code (CCC) laid down in Regulation (EEC) 2913/92 within three years of the entry into force of the Agreement. The CCC was replaced in October 2013 by the Union Customs Code (UCC) (in Regulation 952/2013/EU) and has been transposed to the DCFTA (see below). Moldova also has to implement the EU rules on the relief of customs duties as set out in Regulation 1186/2009/EC and on actions against goods suspected of, or actually infringing, certain intellectual property rights (IPR) in Regulation 1383/2003/EC. The latter was replaced in 2013 (see below).

**Transit traffic.** The EU and Moldova must ensure the progressive interconnectivity of their respective customs transit systems, with a view to Moldova participating in the common transit system set out in the Convention of 20 May 1987 on a Common Transit Procedure (which was amended in 2017 in order to be aligned with the new UCC). This procedure is used for the movement of goods between the 28 EU member states, EFTA
countries, Turkey (2012), Macedonia (2015) and Serbia (2016). Moldova already has observer status to the Convention and has to implement it within three years of entry into force of the Association Agreement. A crucial step towards full membership will be Moldova’s adoption of the Common Transit’s new computerised transit system (NCTS), which enables an economic operator to submit common transit declarations electronically.\(^1\) Moldova will also have to apply the relevant WTO provisions, such as Art. V of GATT, and adopt any future WTO measures for improving trade facilitation.\(^2\)

**Customs cooperation.** The EU and Moldova must strengthen their customs cooperation by exchanging information concerning customs legislation and procedures; cooperating on the automation of customs procedures; exchanging relevant information, best practices and data; and cooperating in the planning and delivery of technical assistance, etc. The DCFTA establishes a procedure for “Mutual Administrative Assistance in Customs Matters”, annexed in Protocol III to the Association Agreement. This establishes detailed procedures for information exchange over cases of suspected or actual fraud in relation to customs legislation. Customs authorities may also provide ‘spontaneous assistance’.

The DCFTA also establishes a Customs Subcommittee that must monitor the implementation and administration of this customs and trade facilitation chapter of the DCFTA, including the issue of customs cooperation, and the proper functioning of the Rules of Origin and Mutual Administrative Assistance in Customs Matters (Protocol III).

In addition to the DCFTA, the EU and Moldova have developed other instruments for customs cooperation, notably in

\(^1\) For the accession procedure of EU neighbouring countries to the Convention on a common transit procedure, see European Commission, “Strategy to prepare certain neighbouring countries for accession to the 1987 EC–EFTA Conventions on a common transit procedure and the simplification of formalities in trade in goods”, COM(2010) 0668.

\(^2\) This means that Moldova will also have to apply the WTO Trade Facilitation Agreement that was adopted by WTO members in November 2014. The Trade Facilitation Agreement will enter into force once two-thirds of members have completed their domestic ratification process. The Agreement is already ratified by the EU, but not by Moldova.
the context of the Eastern Partnership (EaP). In May 2012, for example, the EU and Moldova adopted a strategic framework for customs cooperation. This document identified various priority areas, most of which have been taken over in the DCFTA. One particular point of interest relates to safe and fluid trade lanes by achieving maximum trade facilitation for reliable business, with customs acting as a link in the supply chain. For example, the EU and Moldova aim to create fast lanes to move pre-approved eligible goods across the border quickly.

Another important instrument in EU–Moldova customs cooperation is the 2005 European Union Border Assistance Mission (EUBAM) (see Chapter 3 on foreign and security policy). EUBAM works with Moldova and Ukraine to harmonise border control and procedures with those in place in EU member states. EUBAM’s mandate has already been extended five times (in 2007, 2009, 2011, 2015 and 2017), with the current mandate expiring on 30 November 2020. EUBAM increasingly assists Moldova and Ukraine with the implementation of their respective DCFTAs. For example, it helps Moldova and Ukraine (especially the customs services) create the legal framework, institutional infrastructure and administrative capacity to implement the DCFTA customs and trade facilitation rules. Much of this work is accomplished through its Trade Facilitation Working Group, set up in 2015 as a platform for cooperation between the relevant national government agencies, national businesses and key international development partners such as USAID, American Chamber of Commerce (AmCham) and the European Business Association.

Developments in EU law and policy

The new UCC will complete the move to a paperless and electronic customs environment and it also introduces several new procedures. The substantive provisions of the UCC entered into force on 1 May 2016, but with a transition period until 31 December 2020 to develop new IT systems or to upgrade existing ones. The EU-Moldova Association Council has updated the relevant Annex

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3 See https://bit.ly/2Scv9VT.
with respect to the UCC (Decision 1/2018 EU-Moldova Association Council).

In addition, in 2013 the EU also replaced Regulation 1383/2003/EC on actions against goods suspected of, or actually infringing, certain intellectual property rights by Regulation (EU) No 608/2013. This Regulation sets out procedures for applications to determine whether an IPR has been infringed and measures to be taken against goods that have been found to infringe IPRs. The Regulation also reduces the administrative burden by establishing a common procedure for all kinds of IPR infringements falling within its scope.

Another important issue in the area of customs cooperation is Moldova’s adoption of an authorised economic operator (AEO) programme. In the EU, economic operators can apply for AEO status to benefit from reduced controls and simplified customs procedures. AEO status is granted to reliable operators that comply with security and safety standards. Obtaining AEO status means receiving not only simplified and accelerated customs clearance procedures, but also extra benefits from improving supply chain safety and security. The EU and Moldova aim to mutually recognise each other’s AEO programmes. Moldova’s national legislation on AEOs in approximation to EU provisions has applied since 2017, with 117 AEOs – operational only for EU operators – currently in place. Moldova has also implemented a pilot project at the Leușeni-Albița Moldova-Romania crossing with unilateral recognition of EU AEOs. This process can be broadened to encompass more AEOs.

Implementation perspectives

To bring Moldovan legislation in line with EU law and the international standards listed in the Association Agreement, important including actions have been taken to help implement the AEO concept, electronic customs declarations, IPR protection, promotion of the single window concept and measures to fight corruption. Further efforts are needed, however, for example on the approval of the new Customs Code and its related legislation, recognition of the AEO, and implementation of the NCTS.

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Modernisation and simplification of the Customs Service. The Moldovan Action Plan for the Implementation of the Agreement, as revised in December 2019,\(^5\) includes several measures and actions to be undertaken by the Customs Service and other relevant authorities to improve, simplify and modernise the customs system. The harmonisation with international standards for the nomenclature of goods was realised with the adoption of Law No 172 of 25 July 2014\(^6\) and subsequent updates have been made in accordance with the latest versions of the Harmonized Commodity Description and Coding System of the World Customs Organization (last updated in November 2018).

Moreover, the Customs Service adjusted the United Nations Conference on Trade and Development (UNCTAD) Automated System for Customs Data (ASYCUDA), which is used to process customs declarations in line with the customs duties concessions applied by Moldova towards the EU. ASYCUDA was modernised within the technical assistance project between Moldova and UNCTAD between August 2019 and August 2020.

In addition, the Customs Code of 2000\(^7\) and the customs tariff legislation of 1997 were brought in line with EU practices and legislation (e.g. the combined nomenclature of goods, a ‘blue lane’, and protection of IPR). At the same time, a working group has been coordinated by the Ministry of Finance\(^8\) to draw up a new customs code, which will transpose the provisions of the UCC. In this respect, an internal Action Plan was approved for Moldova’s approximation to the new UCC (see above). However, the document needs the approval of the legislator. The Government Action Plan for 2020-2023\(^9\) had set the deadline for March 2020, but the pandemic has changed the priorities.

Important changes were also introduced to the environmental pollution tax. For example, in order to comply with WTO rules, the

\(^5\) For the revised Plan, see https://bit.ly/3tYWnfK.
\(^6\) See https://www.legis.md/cautare/getResults?doc_id=112799&lang=ro#.
\(^7\) See https://www.legis.md/cautare/getResults?doc_id=120483&lang=ro#.
\(^8\) Order of the Ministry of Finance no. 67 of 23.05.2016 on drafting, finalising and promoting the draft of the new Customs Code.
discriminatory element of this tax has been eliminated so that both importers and domestic producers are subject to the tax.

The new Law on customs services was adopted in October 2017 to improve the governance capacity of the Customs Service.\textsuperscript{10} This Law extends and unifies provisions related to the Customs Service from the existing Law No 1150-108/765 on customs services of 24 July 2002, and defines the organisation and core functions of the Customs Service.

An institutional reform, which started in 2017, gave the Customs Service a new organisational structure.\textsuperscript{11} This reorganisation aimed to ensure a more efficient administration at the managerial and operational levels, as well as clear delimitation of responsibilities for each subdivision at central and regional level. In the process of reorganisation, the number of customs offices decreased from seven to three, while the staff was reduced by 12% to 1,538 persons.

Various measures were undertaken to simplify the customs rules for Moldovan exporters, in particular through the AEO\textsuperscript{12} concept that has been applied since 2014. At the end of 2019, 117 companies benefited from AEO status.\textsuperscript{13} The Moldovan authorities are examining the possibility of signing a mutual recognition agreement with the EU on AEOs after the initiation of joint actions with EU experts, on the gradual implementation of 15 steps. These are outlined in a dedicated roadmap\textsuperscript{14} that was discussed during the Moldova-EU Customs Subcommittee meeting in November 2019. Meanwhile, the simplified procedures for AEOs from the EU have been applied based on unilateral recognition at a pilot project at the Leușeni customs post since July 2015. Moreover, the legal framework now includes provisions related to the possibility of postponing the payment of the import duties for the AEOs, as long as a guarantee is provided.

\textsuperscript{10} See https://www.legis.md/cautare/getResults?doc_id=121328&lang=ro#.
\textsuperscript{11} See https://www.legis.md/cautare/getResults?doc_id=95959&lang=ro.
\textsuperscript{14} See https://bit.ly/3v5oZW2.
A government decision of May 2015 reduced the number of obligatory documents for exports from nine to three, and from eleven to three for imports. In addition, in August 2016 a new Regulation was adopted on the declaration of the customs value of goods,\(^{15}\) in order to approximate to the EU’s UCC.

The authorities also apply the mechanism of approved exporters to facilitate the export of ‘preferential origin’ from Moldova. The approved exporter certificate excludes the obligation to apply for the EUR 1 movement certificate. The Regulation for issuing and withdrawing the certificates of approved exporters was adopted in June 2015 and updated in February 2019,\(^ {16}\) with 35 companies already benefitting from this type of certificate. Another big step towards the simplification of customs procedures is the procedure for the electronic declaration for exports and imports.\(^ {17}\) The submitted declarations are stocked afterwards in the ASYCUDA system administered by the Customs Service. The share of electronic declarations for exports increased between 2014 and 2015 from 21% of the total to 61%, and in 2019 this reached 99%. The use of electronic declarations for imports was at a lower level of 42% in 2019 (compared with only 5% at the end of 2015).

The authorities also implemented the principle of facilitating lanes (‘corridors’) for quick customs clearance: the ‘green lane’ free of customs clearance (in 2019 this was 94% of export and 73% of import declarations); the ‘yellow lane’ with a checking of documents (in 2019 this was 4% of export and 20% of import declarations); and the ‘red lane’ with physical and document checks (in 2019 this was 2% of export and 7% of import declarations). Since July 2015, the authorities have operated a ‘blue lane’ in all customs posts, which allows companies to benefit from ‘free-of-customs clearing’ with no further post-customs clearance.

The pandemic has severely affected Moldova’s trade flows (see the dedicated chapter). The main reason is a general decline in the level of international trade, due to both traffic restrictions imposed by neighbouring countries and as a result of the global socioeconomic crisis. Revenues of the Customs Service decreased

\(^{15}\) See https://www.legis.md/cautare/getResults?doc_id=119858&lang=ro.

\(^{16}\) See https://www.legis.md/cautare/getResults?doc_id=113318&lang=ro#.

\(^{17}\) See https://www.legis.md/cautare/getResults?doc_id=119917&lang=ro.
from Moldovan leu (MDL) 14.3 billion in the first eight months of 2019 to MDL 13.8 billion in the same period of 2020.

The authorities are currently trying to protect IPRs. A Regulation on the protection of IPRs by the Customs Service was adopted in July 2016,\(^{18}\) reflecting the EU’s IPR Regulation (Regulation (EU) 608/2013). Together with the State Agency on Intellectual Property, the Customs Service undertakes measures for the implementation of the National Strategy on IPR 2020.

In November 2017-2019, the EU launched the Twinning project “Support in the modernisation of the Customs Service in accordance with AA requirements”.\(^{19}\) Drafted during this project were the Action Plan for the implementation of the NCTS, the plan for elaborating the secondary legislation for the implementation of the NCTS, the technical specifications for the implementation of the NCTS, compatible with the national transit application; and the module of the NCTS. To modernise the NCTS module, Moldova plans to launch a pilot project in several customs posts, with subsequent expansion at national level.

The Customs Service and EUBAM are working towards the better management of common Moldova–Ukraine borders. Discussions on resuming rail traffic for goods and passengers through the Transnistrian region have continued in recent years, but without success. Priorities include the establishment of a common control of Transnistrian companies at the Transnistrian segment of the Moldova–Ukraine border, enhancing the efficiency of information exchange between Ukraine and Moldova, and resuming transit through pre-conflict routes. The newly created customs post Cuciurgan-Pervomaisk is the first one situated on the Transnistrian section of the Moldovan-Ukrainian border. It was activated in the second half of 2017 for the checking of exports, although more recently\(^{20}\) the extension of full control has unfortunately been postponed. However, this is an important step towards establishing control over the Transnistrian section of the border with Ukraine, which has been out of control for 25 years.

\(^{18}\) See https://www.legis.md/cautare/getResults?doc_id=94241&lang=ro.

\(^{19}\) See the Customs Service, March 2016, https://bit.ly/3ozj60H.

Anti-corruption measures. Since 2013, the Customs Service call centre has operated an anti-corruption hotline. A 2015 Action Plan aims to improve the integrity of the Customs Service by requiring quarterly reports on integrity to be submitted to the Anti-corruption Centre. Anti-corruption measures undertaken by the customs authorities include the adoption, in October 2016, of the Code of Ethics and Behaviour for Customs Officers,\(^\text{21}\) which was developed with the support of EUBAM’s experts. The fight against corruption also saw the Customs Service establish the function of integrity advisor\(^\text{22}\) in October 2017 and approve the integrity guide\(^\text{23}\) in March 2019.

Customs services at a glance

Ensuring a fast, transparent and efficient customs services is a vital element for Moldova’s economic integration with the EU. Moldova is making significant progress in this area. In line with the requirements of the DCFTA, numerous measures have been or are being taken, including

- a new combined nomenclature of goods
- fewer permissive acts required for exports and imports
- the authorised economic operator (AEO) programme aimed at mutual recognition from the EU of the Moldovan AEOs
- electronic customs declarations
- launching the new computerised transit system (NCTS)
- adoption of the Code of Ethics and Behaviour for Customs Officers

The Customs Services still face various challenges, however, such as customs terminals with outdated infrastructure, low levels of trust, and a widespread perception of corruption. Moreover, the new EU Customs Code has to be transposed and implemented to further integrate the national customs practices with the European ones.

\(^\text{21}\) See https://www.legis.md/cautare/getResults?doc_id=111664&lang=ro#.

\(^\text{22}\) Order of the Customs Service no. 434-O/26.10.2017.

\(^\text{23}\) Order of the Customs Service no. 266-P/26.03.2019.
As the customs tariffs will almost fully disappear between the EU and Moldova, non-tariff barriers such as technical standards for goods will become the main obstacle to trade (conventionally called technical barriers to trade or TBTs). In order to tackle these technical barriers, Moldova will adopt the relevant EU legislation, standards and procedures. This will be a long and complex operation, but one fundamental for modernising and making its industry internationally competitive.

**Provisions of the Agreement**

*Basic features of the European system.* While the system is highly complex and has been changing over time, its basic features can be simply described as a two-level system.

- In the first level, there are a limited number of EU harmonisation laws, of which a few ‘horizontal’ regulations or directives cover the general methodology and institutional framework, and around 30 directives cover broad sectoral product groups, such as machinery. For the product groups the directives outline the ‘essential requirements’ related to health and safety that products have to meet before they can be placed on the EU market.
The second level consists of a very large number (around 5,000) of product-specific ‘harmonised standards’, which provide the technical means to comply with the essential health and safety requirements defined in the sectoral product directives. These standards are produced at the request of the European Commission by one of the three technical organisations (CENELEC for electrical products, ETSI for telecommunications equipment and CEN for the largest number of other products). When the Commission is satisfied with the proposed standards, it publishes them in the EU’s Official Journal, so they then have official status as ‘harmonised’, and are presumed to meet the essential requirements of the applicable directive.

An overview of the harmonised standards, grouped by the existing sectoral product directives, can be found on the website of the European Commission. For example, for the very important category of machinery, the applicable directive defining the health and safety requirements is listed, followed by several hundred harmonised standards for specific products or components.

The qualitative difference between the directives and standards is that while the former are binding laws, the harmonised standards, although having official recognition, are voluntary; manufacturers can choose to use them, or they can set their own specifications. In the latter case, however, the manufacturer still has to prove conformity with the relevant directive, which will usually be a costlier procedure than adopting the harmonised European standards that give automatic conformity with the relevant directive.

When placing a product covered by the EU’s harmonisation legislation on the EU market, the manufacturer must draw up and sign an EU Declaration of Conformity, in which the manufacturer

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1 Author’s own calculation based on data in the 2014 annual reports of the three European standardisation organisations, www.cencenelec.eu/Pages/default.aspx and http://www.etsi.org/.

2 CEN refers to the European Committee for Standardisation, CENELEC to the European Committee for Electrotechnical Standardisation and ETSI to the European Telecommunications Standards Institute.

ensures and declares that the products concerned satisfy the essential requirements of the relevant product directive and that the relevant conformity assessment procedures have been fulfilled. By drawing up the EU Declaration of Conformity, the manufacturers assume responsibility for the compliance of the product. Only then may the manufacturer affix the Conformité Européenne (CE) marking to the product. Products bearing the CE marking are presumed to be in compliance with the applicable EU legislation and so benefit from free circulation in the EU internal market.

**Horizontal directives.** Important horizontal EU legislation to which Moldova must approximate consists of two legal acts of 2008 known as the ‘New Legislative Framework’, namely Decision 768/2008/EC on a common framework for the marketing of products, and Regulation (EC) 765/2008 on the requirements for accreditation and market surveillance. The former sets out a common framework of general principles and reference provisions for the marketing of products. It establishes criteria for EU sectoral legislation by providing the definitions of fundamental concepts (e.g. “placing a product on the market” and “harmonised standards”). It also defines the obligations for manufacturers, importers and distributors and sets out several modules of conformity-assessment procedures, which are explained further below, together with the accreditation requirements.

In addition, Moldova has to approximate Directive 2001/95/EC on general product safety. This Directive imposes general safety requirements on any product put on the market and defines the criteria that must be met before a product is considered safe. Moldova has to ensure that producers comply with these rules and monitor product compliance with the applicable EU requirements. It will have to identify products that pose a serious risk to health and safety and prohibit such products from the market. In addition, it has to put in place a system of liability for defective products in line with the relevant EU rules.4

**Sectoral directives.** According to Annex XVI of the Agreement, Moldova has to approximate to 20 sectoral directives

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that provide for CE marking, covering a wide range of products such as machinery, lifts, the safety of toys, medical devices and simple pressure vessels. For each product group, these sectoral directives define the ‘essential’ health and safety requirements and the specific conformity assessment procedures to be followed (also explained below). In addition, several directives covering cosmetic products, pharmaceuticals, chemicals and construction of motor vehicles – for which specific rules and procedures apply – are included in the Annex. Moldova’s approximation to these directives is complicated by the fact that they are currently being updated in the light of the New Legislative Framework, in particular the EU’s Decision 768/2008/EC on a common framework for the marketing of products, which aims to improve market surveillance and boost the quality of conformity assessments (see below on conformity rules and procedures). The EU and Moldova therefore updated the TBT annex in 2016 (see below).

*European standards.* The Agreement requires Moldova to adopt the body of European standards, which includes, in addition to the 5,000 harmonised standards, the 25,000 European standards (i.e. all the standards developed by CEN, CENELEC or ETSI). Clearly, this will be a huge challenge for Moldova. Because the Agreement does not provide for a timetable for transposing the standards, Moldova will have to prioritise its transposition efforts. Moldova is also required to repeal any conflicting national standards, including GOST standards.5

Moldova must ensure that its relevant national bodies participate fully in the European and international organisations for standardisation and conformity assessment, including accreditation. In particular, Moldova is obliged to progressively fulfil the membership conditions for the European standardisation organisations (CEN, CENELEC and ETSI).

*Conformity and surveillance procedures.* The Agreement envisages wide-ranging cooperation between the two parties in the fields of market surveillance and conformity assessment procedures. Moreover, the parties have to promote cooperation

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5 GOST stands for Gosudarstvenny Standart (State Standard), as used in the USSR and post-Soviet states.
between their respective organisations, public or private, responsible for these matters.

As noted above, Moldova has to approximate Decision 768/2008/EC on a common framework for the marketing of products. This establishes a highly complex set of differentiated models (called modules in the text) for conformity assessment procedures. The sectoral directives covering the different product groups identify which module of conformity assessment is required. For certain groups of products that present a high risk to the public interest (e.g. pressure vessels, lifts and certain machine tools), a conformity assessment by a third party is required before placing the product on the market. These third parties are laboratories, inspection and certification bodies, which are known generally as conformity assessment bodies, or more formally as Notified Bodies. When implementing this decision, Moldova will have to guarantee that its Notified Bodies offer all guarantees of independence, objectivity, impartiality, confidentiality and professional integrity. For various low-risk products, the manufacturer can prepare the declaration of conformity.

Moldova also has to approximate Regulation (EC) 765/2008, which lays down rules on the requirements for accreditation of conformity assessment bodies and for market surveillance of products to ensure that products placed on the EU market fulfil the specific health and safety requirements defined in the sectoral EU legislation. This regulation includes detailed rules on how a national accreditation body (i.e. the body that evaluates whether a conformity assessment body meets the specific requirements) should be organised. There has to be a single national accreditation body, operating with impartiality and objectivity, and on a non-profit basis.

Moldova will have to establish and maintain surveillance authorities that monitor and control whether products placed on its market meet the EU health and safety requirements. These market authorities must perform checks on the characteristics of products through documentary, physical and laboratory checks. The surveillance authorities must have the competence to withdraw from the market products that present a serious risk. However, a decision to withdraw products from the market has to be proportionate, communicated to the relevant economic operators,
and must state the exact grounds on which it is based. Moreover, in such a case, Moldova will have to notify the Commission of such a decision and also notify it to the Rapid Alert System for dangerous non-food products (RAPEX).

The Agreement aims to conclude an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA). ACAAs are a specific type of mutual recognition agreement envisaged by the EU for any country of the eastern or southern parts of the European Neighbourhood Policy (ENP) and the western Balkan countries. By concluding an ACAA, the parties agree that industrial products listed in the annexes of an ACAA, fulfilling the requirements for being lawfully placed on the market of one party, may be placed on the market of the other party without additional testing and conformity-assessment procedures. Still, before concluding an ACAA, Moldova would first have to fully implement its obligations relating to the EU’s directives, including the harmonised standards and accreditation and conformity assessment institutions described above. These reforms will be closely monitored by the EU institutions. An ACAA would consist of a framework agreement, providing for the recognition of equivalence of the conformity assessment, verification and accreditation procedures, and one or more annexes setting out the products covered.

Relations with third countries. Moldovan producers are entirely free to manufacture for export to third-country markets such as Russia, according to those countries’ own technical standards. On the import side the question is more complex. Once the sectoral EU directives are implemented, imports, including those from Russia, will have to meet the essential health and safety requirements of those directives before they can be placed on the Moldovan market. These products do not have to be produced on the basis of the EU harmonised standards per se, which are voluntary. Yet only products from third countries that follow the EU’s harmonised standards will have the ‘presumption of conformity’ to be placed on the Moldovan (and EU) market.

Developments in EU law and policy

The EU–Moldova Trade Committee updated the Annex of this chapter in order to catch up with relevant EU legal developments.
Several EU acts listed in the TBT Annex have been amended, recast or repealed and replaced by new EU acts since the Association Agreements were negotiated and signed. In particular, around 20 sectoral directives have been replaced in the context of the new legislative framework. This framework, adopted in 2008, aims to gradually improve the internal market for goods and strengthen the conditions for placing a wide range of products on the EU market by strengthening market surveillance and conformity assessments. One of its key elements was Decision 768/2008 (explained above).

During the past decade, mainly after the negotiations of the Association Agreements, the EU updated its sectoral product legislation to align these with Decision 768/2008. Accordingly, the joint Trade Committee in the EU-Moldova Association Agreement adopted in October 2016 a decision to update Annex XVI to reflect these recent legislative developments (Decision 1/2016). The new Annex contains 35 sectoral directives, including a deadline for approximation. Whereas the horizontal legislative framework (relating to, for example, accreditation, general product safety, liability of defective products and standardisation) remains unchanged, much of the sectoral legislation, in particular those providing for CE marking⁶ and specific sectoral legislation related to motor vehicles⁷ and chemicals,⁸ has been updated. The timeframe for implementation of these new directives was rather ambitious (2017-2019). It has to be noted that, since this update, new sectoral

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⁷ Regulation (EU) No 168/2013 on two- or three-wheel vehicles and quadricycles.

legislation has been adopted at EU level, requiring further updates to the TBT Annex.\textsuperscript{9}

**Implementation perspectives**

**Legislative approximation.** The National Action Plan for the implementation of the Association Agreement and DCFTA for 2017-2019\textsuperscript{10} contains various actions, both legal and technical, covering TBT provisions. In terms of legal approximation, the Ministry of Economy and Infrastructure delivers notifications to the European Commission concerning drafted legal acts and informs the Association Committee of the progress achieved in the implementation of Annex XVI.

According to the official account, all horizontal EU laws have been transposed in the period 2016-2019 in Directive 85/347/EEC concerning liability for defective products; Directive 2009/3/EC relating to units of measurement; Regulation 765/2008/EC on accreditation and market surveillance relating to the marketing of products; Decision 768/2008/EC on a common framework for the marketing of products; Directive 2001/95/EC on general product safety; Regulation (EU) 1025/2012 on European standardisation.

Work on approximation of sectoral legislation is in progress, although there are certain delays caused by the complexity of the legislation, lack of capacity and financial resources. So far, directives in the following sectors are being transposed entirely or partially: measuring equipment; energy equipment; safety; construction materials quality; industrial machines; medical equipment; non-autonomous weighting apparatus; pyrotechnic, packaging and package waste; cosmetics composition control; and road traffic safety. The others are in the process of approval at different stages of the legislative process.

**Adoption of standards.** At the end of 2019, all 26,838 (100\%) of European standards (CEN/CENELEC) became Moldovan national standards. Simultaneously, there is an ongoing process to

\textsuperscript{9} This is the case, for example, for medical devices - Regulation (EU) 2017/745; in vitro diagnostic medical devices - Regulation (EU) 2017/746; and EU fertilising products – Regulation (EU) 2019/1009.

\textsuperscript{10} For the revised Plan, see https://bit.ly/3bGKV2d.
identify and withdraw the standards (mainly the GOSTs) that are in conflict with European standards. Between 2015 and 2019, approximately 12,600 conflicting and/or outdated standards were withdrawn. The national standardisation body set up seven technical committees to identify the contradictory/outdated standards that should be repealed. However, the process is sensitive for some companies, for both economic and social reasons. Thus, GOSTs are used in trading with some CIS countries where they are still valid (e.g. Russia, Belarus, Kazakhstan, etc.), or they are used in commercial contracts where the parties recognise them.

The Institute for Standardization of Moldova allows full online access to information on the country’s standards through the “E-Standards” Automated Information System. However, this does not assure their practical application in the production process.

**Institutions.** The reform of the institutions responsible for coordinating policies of standardisation, metrology and accreditation has been ongoing since it started in 2012.\textsuperscript{11,12} The reform included the adoption of normative acts leading to the creation of new institutions and the reorganisation of the old ones. Consequently, three autonomous institutions were set up: the National Institute of Standardization (later renamed the Institute for Standardization of Moldova), the National Institute of Metrology, and the National Centre of Accreditation (MOLDAC). These institutions collaborate with the Ministry of Economy and Infrastructure, which monitors their activities, and which is the only central authority responsible for the coordination of the quality infrastructure. The approximation process covering the accreditation and surveillance activities of MOLDAC has been initiated. The Law on market surveillance\textsuperscript{13} and the Law on accreditation and conformity assessment\textsuperscript{14} have been adopted in

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\textsuperscript{11} See Governmental Decision no. 996 of 27 December 2012 concerning the measures for reforming the quality infrastructure.

\textsuperscript{12} See Governmental Decision no. 77 of 25 January 2013 concerning the reorganisation of the state enterprise, the Centre of Accreditation in Products Conformity Assessment.

\textsuperscript{13} See https://www.legis.md/cautare/getResults?doc_id=106105&lang=ro#.

\textsuperscript{14} See https://www.legis.md/cautare/getResults?doc_id=100065&lang=ro#. 
line with EU legislation, but it will take time to complete their full implementation.

The Institute for Standardization of Moldova participates in the activities of the European standardisation organisations, with the status of an affiliated member of CEN and CENELEC and observer status at ETSI. It participates in the activities of the technical committees of CEN. Currently, the institution carries out actions to satisfy full membership criteria, such as ensuring transparency, openness and consensus-based decisions. The requirements to pay membership fees and a lack of expertise and relevant human resources are among the main factors that may hold back the Moldovan authorities from advancing their status within these organisations. The Law on standardisation, adopted in March 2016, provides the elements of the national standardisation system, the attributions of the national standardisation body and its relations with regulatory authorities.

In the field of metrology, the Moldovan body has established cooperation with European specialised bodies, such as the European Legal Metrology (WELMEC) and the European Association of National Metrology (EURAMET). In May 2017, the National Institute of Metrology (NIM) was accepted as an associated member of WELMEC (participation in seven working groups). Subsequently, in May 2019, NIM became a full member of EURAMET.

MOLDAC has been an affiliated member of the European Cooperation for Accreditation (EA) since 2011. Subsequently, in October 2017, after being evaluated by the EA team, MOLDAC signed the Bilateral Recognition Agreement with the European Cooperation for Accreditation (EA-BLA). Then in May 2019 it reconfirmed its status as a signatory part of the EA-BLA, participating in the work of EA technical committees.

At the same time, based on EA-BLA, MOLDAC signed the Mutual Recognition Arrangement with the International

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15 The National Standardisation Institute aims to increase the level of transparency by publishing the National Programme for Standardisation and organising open discussions with relevant stakeholders on conflicting standards proposed for cancellation.

16 See https://www.legis.md/cautare/getResults?doc_id=106043&lang=ro#.
Laboratory Accreditation Cooperation (ILAC MRA), thus obtaining international recognition. In this way, the documents issued by laboratories and inspection bodies accredited by MOLDAC are recognised in the EU.

**Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA).** The first steps towards opening negotiations on an ACAA have been taken, but the process seems to be complicated and demanding. In November 2016, a roadmap was adopted for the initiation of negotiations on this agreement, the paper being coordinated with the experts of the European Commission (according to the document, the signing of the ACAA between the Republic of Moldova and the EU and its inclusion as an additional Protocol to the Association Agreement should take place in the last quarter of 2022). At the same time, the report “Industry analysis for identification of the potential scope for signing ACAA with European Union and Republic of Moldova” elaborated by the Ministry of Economy and Infrastructure with the support of EU expertise and presented in July 2020, has identified 11 potential sectors and products. Simultaneously, the Moldovan side took actions to develop and strengthen some elements of the conformity assessment system, but it lacks a comprehensive strategy to restructure the entire system. The amendment of secondary legislation and its approximation to the transposed horizontal EU legislation in the field, as a precondition for an ACAA, is ongoing, as well as the approval of secondary legislation.

Unfortunately, the pandemic has affected both progress in this area and the functionality of the institutions responsible for implementation. The priorities of economic agents have shifted to survival, rather than the implementation of European standards.

Thus, the following challenges remain to be addressed before the TBT provisions of the Agreement and the DCFTA can be implemented:

- the poor technical endowment of the testing and certification bodies;

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18 See Government Order no. 103 of 5 June 2015 on working group to draft the multiannual procurement plan for purchasing the necessary equipment for the testing laboratories.
- insufficient proficiency in the English language on the part of technical committee members, which hinders their examination of drafts of standards, as well as participation in these meetings;
- limited interest of local actors in engaging in the standardisation process, owing to the lack of financing for participation in the activities of the technical committees;
- inadequate financial resources for companies to effectively implement the transposed European standards;
- resistance, even of an ideological character, towards the application of European standards, especially among businesses accustomed to production in line with GOST standards; and
- lack of effective enforcement mechanisms, especially for food production.

**Technical standards for industrial goods at a glance**

The adoption of European technical standards for industrial goods is of strategic importance for Moldova’s economic modernisation and integration with the EU. On the positive side, this complex process is now seen to be accelerating, with transposition of EU directives and adoption of harmonised standards and of laws on standardisation, metrology, accreditation and conformity assessment.

Even where primary legislation has been adopted, however, much remains to be done to apply European standards effectively once they have been transposed nationally.

Despite the adoption of horizontal legislation, Moldova still needs to adopt sectoral legislation and also to ensure its effective implementation for future ACAAs.

Transposition of European standards requires conflicting GOST standards to be withdrawn. Efforts are advancing, but there is still opposition from various certifying laboratories and enterprises that use GOST standards.
8. FOOD SAFETY REGULATIONS

The chapter on sanitary and phytosanitary (SPS) measures concerns the food safety standards required to facilitate trade in agricultural and food commodities and plants while safeguarding human, animal and plant life and health (Art. 181 of the EU-Moldova Association Agreement). The key mechanism consists of approximating Moldovan legislation to the enforced EU legislation. The Agreement also aims to reach a common understanding on animal welfare standards.

Provisions of the Agreement

Approximation. The Agreement does not specify the list of laws to be approximated, but rather leaves that to be done within three months of the Agreement entering into force. This was part of the mission of the SPS subcommittee, established according to Article 191 of the EU-Moldova Association Agreement. The SPS subcommittee acts according to its regulation, established by its decision (Decision no. 1 from 12 March 2015). Soon after that, the SPS subcommittee established the list of legislation to be harmonised.

The products to be covered are listed in Annex XVII-A, including live animals and animal products. The list (i.e. the SPS ‘Strategy’) was worked out in the course of 2015 and jointly adopted.

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by Moldova and the EU at the SPS subcommittee meeting from 1 June 2016. The provisions of Annex XXIV-B offer a comprehensive list of EU legislation that must be approximated by 2020, and the timeline for every individual action. The list covers 235 EU legislative acts relating to health, food and animal welfare standards (Figure 8.1).

Figure 8.1 The EU-Moldova SPS Strategy, numbers of legal acts

<table>
<thead>
<tr>
<th>Moldova SPS Strategy</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>10</td>
</tr>
<tr>
<td>Veterinary</td>
<td>78</td>
</tr>
<tr>
<td>Placing on the market of food, feed and animal by-products</td>
<td>28</td>
</tr>
<tr>
<td>Food safety rules</td>
<td>51</td>
</tr>
<tr>
<td>Specific rules for feed</td>
<td>10</td>
</tr>
<tr>
<td>Phytosanitary</td>
<td>49</td>
</tr>
<tr>
<td>GMO</td>
<td>10</td>
</tr>
<tr>
<td>Veterinary medical products</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>235</td>
</tr>
</tbody>
</table>

*Equivalence.* To recognise the equivalence of measures or groups of measures taken by Moldova with those of the EU, for sectors or subsectors and for commodities or groups of commodities, specific rules are established. The process is to be launched by the exporting party based on the “objective demonstration of equivalence”, and the “objective assessment of this demonstration” by the importing party. This process should be interactive. It is then the responsibility of the importing party to determine equivalence or not, or to withdraw or suspend equivalence, based on internationally recognised standards or proper scientific evidence. The importing party may conduct verifications for which detailed rules apply. With equivalence

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2 Depending on the specifics of the EU legislation, the legal acts to be harmonised can be EU regulations, directives, decisions or recommendations (for each national legal or normative act in Moldova, the specific EU act transposed is presented in the introductory part of the respective act).
recognition comes the reduction of physical checks at borders and simplified procedures.

The EU conducts regular audits to ensure conformity, for example, the audit it conducted in 2014 on the egg sector (see below).

**Trade conditions.** Once the approximation has been fully undertaken, the import conditions for the products or sectors in question will apply to the whole territory of Moldova as the exporting country (Art. 186). Enterprises wishing to export to the EU, however, still need to obtain certification from the competent authority of Moldova, which has to guarantee that the establishment meets relevant health requirements of the EU and has the power to suspend the establishment’s listing in the case of non-compliance.

**Pests and animal diseases.** There are detailed provisions for handling problems of animal or plant diseases and pests. The animal and fish diseases are listed in Annex XVIII-A. In the case of pests, each party must establish and communicate the lists of regulated pests. Procedures are established to recognise the pest-free status of given regions for the purpose of trade. Procedures are established for notification of risks to public, animal or plant health through diseases.

**Safeguard measures.** Where the importing country needs to take measures to control a serious health hazard or risk, it may take provisional restrictive measures affecting imports, but these have to be suitable or proportional in order to minimise the disruption of trade.

**SPS Subcommittee of the Association Council.** This subcommittee is in charge of the review on the implementation of the SPS chapter and may inter alia decide on amendments to the Annexes. Decisions will be made on the basis of consensus of the parties.

**Pre-existing import arrangements.** The EU maintains a comprehensive system for the regulation of imports of agri-food products from third countries to ensure they are fully compliant with its SPS requirements, notably under Regulation (EC) 854/2004 on rules for the organisation of controls of products of animal origin.

This regulation first sets the rules for the approval within the EU itself of establishments (i.e. slaughterhouses or food processing factories), and goes on to require officially designated, competent
authorities to carry out or organise controls to verify compliance with SPS requirements. The regulation also establishes comparable rules for approving establishments in third countries for the purpose of exporting to the EU market. These arrangements are currently being used by Moldova and will remain in force while the provisions of the Agreement are being implemented.

The most active categories of recognised establishments and the number of enterprises recognised are as follows:\(^3\)

**Food**
- Fishery products – 1
- Frogs' legs and snails – 1

**Animal by-products**
- Facilities for the collection or handling of animal by-products – 20
- Processing plants – 37
- Plants or establishments manufacturing intermediate products – 2

Total SPS compliance across the entire territory of Moldova is an ambitious objective, and it may take a number of years for the system to become effectively applied throughout the agri-food sector. In the meantime, the procedures exist for those enterprises willing and able to comply with certification for exporting their products to the EU market. This is an important element of effective flexibility in the Agreement that can help avoid excessive compliance costs.

In addition, there are certain EU provisions to exempt small-scale production from various SPS requirements (Regulation (EC) 853/2004 on hygiene rules). Hygiene rules, for example, do not apply to production for private domestic consumption, or small quantities supplied to local retail establishments and markets. Moldova remains free to apply similar exemptions for local markets.

**Implementation perspectives**

Moldova has considerable potential in the agri-food sector, but shortcomings in the SPS regulatory system are holding back the exploitation of this potential. This is especially the case for products of animal origin, where authorisations for exporting to the EU have

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\(^3\) See https://bit.ly/3bl0mXH.
so far only been possible for three products: honey, caviar and egg flour. Eighteen companies from Moldova exported 3,784 tonnes of honey worth €56.8 million to the European market in 2019. But much of Moldova’s honey continues to be exported in bulk, to be later processed in the importing countries, which means that the final products are not labelled as ‘Moldovan’ on the EU market. The SPS regulations are less of a problem for fresh fruits and vegetables and wines, because the level of compliance for these categories of goods is easier to fulfil.

The SPS sector is improving as a result of the growing administrative capacity of the Food Safety Agency in verifying animal health and animal welfare rules, as well as the progress registered in what concerns the legislation transposing process. However, the results in the field are not uniform: some positive aspects are mixed with systemic shortcomings. The positive trends include the transposing of legislation that seems to be on track, with the Government adopting six legal/normative acts during the first semester of 2020. Moreover, the Moldovan National Accreditation Centre is now able to provide accreditation to the laboratories that have been established, and timely communications are being maintained with the European Commission. More problematic, however, is the lack of information on this progress.4 There is no unique data source on the SPS sector, while the official data differ from the feedback conveyed by the associations and individual producers. The infrastructure capacities are very much below the needed levels.5 Finally, the fact that legislation is enforced is by no means a guarantee that it is actually being implemented.

The authorities are trying to maintain a good level of communication with the public on this topic. At the beginning of 2020, the Ministry of Economy and Infrastructure held a working meeting6 on the evaluation of the implementation of the roadmap

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4 The roadmap for exporting poultry meat and category B eggs to the EU market is mentioned in many government communications, but the document itself is not publicly available, making it difficult to track and monitor actual implementation.

5 As mentioned below in more detail, there is a shortage of laboratories (accredited or not) to certify products. Even where they do exist (the Donduşeni laboratory for milk products, for example), they may be located in areas that are not convenient for some producers.

6 See https://bit.ly/2QBni3J.
for obtaining EU market access for poultry meat and category B eggs (presented during the fifth meeting of the SPS subcommittee, held in July 2019). The commitment to fulfil the requirements of the roadmap for exporting poultry meat and category B eggs to the EU was reiterated and the authorities were asked to carefully prepare for the upcoming audit mission with regard to exporting animal-origin products. Building a waste-processing station and accrediting a lab for animal health are also priorities in this field, as are the adopted legislation on animal-origin sub-products and their derivates not destined for human consumption, and the elaboration of a draft roadmap on developing the system of collecting, processing and burning the respective products. The Ministry of Economy and Infrastructure continue tracking and coordinating the process of implemented actions from the roadmap concerning the export of poultry meat and category B eggs to the EU.

Current status quo in the SPS regulatory system. The National Agency for Food Safety (ANSA) is the administrative authority, subordinated to the government (executive), even though the policies in the field are adopted by the Ministry of Agriculture, Regional Development and Environment (MARDE). The two institutions signed a bilateral agreement on collaboration in April 2016, which emphasises that ANSA is responsible for implementing relevant SPS actions and also for providing MARDE with data tracking the progress in the field. The agency has regulatory and control competences on food safety and veterinary standards, animal husbandry, plant protection and phytosanitary quarantine, control of seeds, quality primary products, food products and animal feed. It can restrict the import and marketing of goods (fertilisers, pharmaceuticals for veterinary use, agri-food and genetically modified organisms) if they contradict national standards and requirements. Moreover, the agency supervises the export of agri-food goods to local markets through its units at the customs offices.

Major institutional changes that began in 2016 have continued every year up to 2020. As a result of the Central Public Administration reform, at ministerial level, the Ministry of

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7 The roadmap, for 2019-20, is the second; the first covered 2017-19. It was presented during the fifth meeting of the SPS subcommittee: https://bit.ly/2S9bEgL.
Agriculture and Food Industry merged with the Ministry of Regional Development and Construction (regional development component), and the Ministry of Environment with the Agency for Land Relations and Cadastre.

ANSA is the main institution responsible for SPS policy and practice. The organisational structure was approved in November 2017. ANSA has around 1,600 members of staff and is responsible for several categories of acts: phytosanitary and quarantine permissive acts, safety acts, sanitary–veterinary certification of seed and seedlings; and exports to CIS countries. Its personnel are involved in capacity-building activities (ad hoc training sessions) with a focus on food safety and agri-food composition, veterinary residues, food and feed contaminant surveillance, disease investigations (swine fever and rabies) and contingency planning.

Two units within ANSA are in charge of inspections. One deals with sanitary and veterinary supervision, which includes animal welfare, disease eradication, animal identification and monitoring. The other unit deals with supervision of marketing, distribution and consumption of food products, of both animal and vegetal origin. At the local level, ANSA has territorial units in 34 districts (raioane), and one each in Chișinău, Bălți and Gagauzia, making 37 in total.

Diversifying the export of animal-origin products and improving the laboratory infrastructure are some of the priorities in the SPS field. The SPS legislation for the period 2016-17 includes measures to make Moldovan companies eligible for exporting category B eggs and poultry, and the EU’s assessments have now started for both products. Transition periods for trade liberalisation with the EU are expected for the following products: pasta, pepper, corn (three years); cheeses, vegetables (tomato, cucumbers, etc.), fruits (cherries, nectarines, raspberries, wines, juices, and jams) and bakery products (five years); and milk, meat and fresh cherries (ten years).

**Implementation.** The list of EU laws to be approximated for SPS was not fixed in the Agreement, but was scheduled for a decision within three months of its entry into force. In 2015, the Moldovan authorities elaborated this list with the aid of a screening done with European experts under a TAIEX project and presented it to the European Commission for consultation. The list was
published for public consultation in Moldova in March 2016. The official amendment of the Agreement (Annex XXIV-B) to bring this into effect took place in the context of the SPS subcommittee held in Brussels on 1 June 2016.

The agreed list of SPS legislation covers 235 EU directives and regulations. The largest share relates to veterinary requirements (78 directives) and rules for the safety of agri-food products (48 directives), with fewer in the following areas: access to the market for agri-food, animal feed and animal-origin sub-products (27); general framework legislation (10); specific rules for animal feed (10); genetically modified organisms (10); and medical goods for veterinary purposes (6).

The periods of approximation agreed for SPS legislation were up to five years until 2020. The bulk of the legislation was scheduled for two-year periods of approximation (for 68 directives), three-year periods (52 directives) and four-year periods (57 directives) starting from 2016. The Moldovan authorities were expected to transpose 37 EU directives in 2016, leaving only eight for 2020. During 2015–19, the executive adopted and examined numerous decisions and proposals for draft laws.

The concept of traceability is one of the unresolved issues in the transposing of the EU acquis in the SPS field. It is not fully understood by producers that the EU and international standards refer and apply to the entire value chain of production and that specific segments cannot be placed out of context. It complicates the system if the producers implement the standards accordingly, but there are no accredited laboratories to provide the needed certificate.

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10 For perishable goods, it is important to have laboratories available in Moldova, because sending the produce abroad, particularly in the case of milk, when the requirement for testing is every 15 days, is not an option.
DCFTA on Moldova’s implementation website.\textsuperscript{11} MARDE’s competences were completed by transposing Regulation (EC) 882/2004 on official controls to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. Since 2015, with the support of the World Bank, inspection points for ANSA have started to be incorporated in the customs points in Tudora and Criva. New inspection points were opened for customs points on the border with Romania, at Giurgiuleşti and Leușeni.

At the last EU-Moldova Association Committee in Trade Configuration meeting on 4 October 2019, Moldova showed its interest in the export of poultry and eggs to the EU. During the 19 July 2019 meeting of the SPS subcommittee, the authorities presented a draft roadmap\textsuperscript{12} for 2019-2020, describing how EU import requirements will be met. As a first step, the EU provided a questionnaire on which the eligibility for the export of these products is assessed. This requires secure and effective implementation of the roadmap, and only after this is the EU supposed to verify readiness. In autumn 2018, Moldova implemented articles 186 and 187 of the DCFTA (related to SPS import conditions and the certification). Consequently, the EU published the list of European operators eligible to export to Moldova without any additional checks being required. The EU side expressed concerns about the incompatibilities of some provisions of the Law on state control over business activity (Law No 131) with the market surveillance legislation (Law No 7) and the Moldovan side also stated that the country needs to show that standards are implemented to send a positive signal to the markets.

ANSA has informed the EU side about the degree of approximation during the last SPS subcommittee, held in Chişinău on 19 July 2019. A list of harmonised veterinary certificates, representing a priority for approximation, is compiled by ANSA and sent to the Commission for assessment. The roadmap for obtaining access to the EU\textsuperscript{13} market for poultry and category B eggs contains challenges in terms of ANSA’s limited capacities and

\textsuperscript{11} See https://bit.ly/3v7blll.

\textsuperscript{12} The document is not publicly available.

\textsuperscript{13} A publicly available source was not found.
inadequate equipment (for applying testing methods) of the laboratories.

The EU also highlighted the issues related to the application of the Regulation of the border crossing for goods that are subject to ANSA’s control. This Regulation entered into force through Government Decision no. 938 from 17 October 2018. Its purpose is to apply the one-stop-shop principle, enhancing the efficiency of the controls performed by ANSA based on risk analysis. However, in an open letter addressed to the government of 7 July 2020, the American Chamber of Commerce (AmCham) revealed that, according to its members (importing companies), ANSA inspectors impose checks on imports of non-animal-origin foods, thus contradicting the provisions of the Law No 50 from 2013.

**Development and equipment of laboratories.** The national laboratory infrastructure is underdeveloped and insufficient. The efforts to improve the infrastructure are more fragmentary than systemic, and results have been poor so far. Overall, there are 16 laboratories accredited at the national level. Six laboratories are accredited to issue test reports for goods exported to Russia, and eight can issue phytosanitary certificates for exporting goods to the EU.

For many sectors, the reference laboratories have not been identified and their role has not been clearly defined. In the case of divergent results where tests have been carried out by different laboratories, it is not possible to clearly define the final result.

Neither the National Reference Laboratory for Veterinary and Food Safety nor the Republican Veterinary Diagnostic Centre (IP CRDV) are fully equipped and both lack the most advanced equipment for testing parameters in the field of food safety. Moreover, the National Centre for Verification and Certification of Plant and Soil Production is not capable of testing all food safety parameters, including pesticide residues, heavy metals, genetically modified organisms (GMOs), or DNA sequencing. The Laboratory for Veterinary and Food Safety has been internationally accredited since March 2017, but only for eight methods.

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According to the Food Safety Strategy for 2018-22, border inspection posts do not have adequate facilities or conditions for unloading goods and sampling. Only two out of ten posts (Criva and Tudora) were able to carry out full screening and sampling at the border in September 2016. This is confirmed in a report issued by the Court of Accounts of Moldova.

The Moldovan authorities have implemented a project for a laboratory that can determine pesticide residues in plants, soil and production of non-animal origin. Support came from EU member states (including Romania) and other countries (Norway and Israel). A biomolecular laboratory for detecting GMOs was opened in May 2016 with the support of Israel’s Agency for International Development Cooperation.

The EU has offered laboratory kits for investigating bird diseases such as avian influenza and the Newcastle Disease. The IP CRDV has benefited from these kits, and its staff also participated in training organised by a Romanian institute on diagnostic methods in rabies, rabies vaccination and detection of salmonella, etc. This centre is still testing animal-origin food products (meat, fish, milk and honey) on the basis of the relevant European standards or technical regulations. At the same time, the IP CRDV is using international standards (ISO) for testing for the presence of microbiological diseases.

Procedures for developing the Automatic Informational System (LIMS) for the management of veterinary, sanitary and food-safety laboratories were initiated in 2014, but lack of funds and poor institutional cooperation has stalled the project in its early stages of development.

The authorities have also been developing an Information System for the State Register for Animals since 2007, in line with the European Biodiversity Information System for Farm Animals (EFABIS).

One of the first audits by the EU for products of animal origin (category B eggs) took place in 2014, conducted by the then DG Sanco (Health and Consumers) of the European Commission. However, the report emphasises that ANSA is not able to deliver

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the level of assurance required for exporting category B eggs to the EU. It identified the following problems: ineffective surveillance, deficient internal reporting and audit systems, insufficient training of the personnel of the territorial units and lack of diagnostic resources within laboratories to detect the avian influenza and the Newcastle Disease viruses.\(^{18}\)

**Challenges.** The ministries were the first to be reorganised under the 2016–20 central public administration reform, followed by government agencies. Thus, the plan to boost the capacities of ANSA was weakened at least for a year, between September 2016 and September 2017. During that time, lack of funds led to significant delays in the implementation calendar of the harmonisation plans for SPS legislation. It also became clearer that both the financial and administrative efforts required to implement the provisions of the Association Agreement had been vastly underestimated.

The major outstanding challenges in the SPS field concern the activities of ANSA. The agency has made some progress in improving the governance of the sector, but it still requires serious institutional capacity building in its staffing and laboratories. These requirements are quite far reaching, and include enhancing professionalism and conducting targeted training sessions, with a focus on territorial units and laboratories, modernising existing laboratories, and applying international and/or European standards and technical regulations by laboratories.\(^{19}\) The export of goods of animal origin is hampered by the poor infrastructure installed in laboratories, and their lack of international accreditation.

ANSA faces frequent accusations of corruption in relation to influence peddling, and passive corruption in importing goods from the EU, for example the illegal issuing of phytosanitary certificates for goods exported from Moldova in 2017, including the

\(^{18}\) See DG Sanco, European Commission, Final Report of an Audit carried out in the Republic of Moldova from 25 November to 3 December 2014 to evaluate the animal health controls in place for category B eggs intended for export to the European Union (audit number 2014-7351).

\(^{19}\) This refers in particular to ISO/IEC 17025:2005, specifying the general requirements for the competence to carry out tests and/or calibrations, including sampling.
export to the Russian market of Polish apples as Moldovan goods, and illegal export schemes involving the Transnistrian region, which were exposed in 2016. ANSA was subject to various audits and anti-corruption evaluations, especially in 2017, when five investigations were conducted by the National Anti-corruption Centre. As a result, three of the heads of customs at phytosanitary control stations, two chiefs and one ANSA inspector were detained by the anti-corruption prosecutors. Also in 2017, the Court of Accounts of Moldova conducted its first audit on the regularity and veracity of ANSA’s financial reports. The main conclusion was that ANSA lacks a clear financial reporting mechanism, that the internal control mechanisms are primitive and the laboratories outdated.

In the context of the Parliament Decision no. 56/2017 on approving the national integrity and anti-corruption strategy for 2017-2020, the Government approved the sectoral anti-corruption action plan in the field of food industry for 2019-20 (Government Decision No 56/2019). This aimed to avoid cases of corruption, but in the 2019 activity report of the National Anti-corruption Centre, ANSA and the MARDE are among the institutions with a rather high number of corruption cases, with five in 2019. These included cases where ANSA veterinarians (in Cahul and Vulcănești) were obliging economic agents to pay bribes to obtain a sanitary-veterinary certificate in order to place their products on the market. A superior inspector of the municipal subsidiary of ANSA was detained (later released) on traffic of influence concerning a permit for producing meat products. The 2018 report of the Court of Accounts had earlier found problems in ANSA’s activity in terms of checking the conformity of food products imported by Moldova.

The GOST standards are still applied to a significant degree in the foodstuffs industry, although there is a clear shift towards EU standards as exports for the European market develop. GOST

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standards were still published on the official website of the Institute for Standardization of Moldova as recently as 2020.

A set of actions is recommended to ensure effective implementation of the SPS measures:

- Creation of a national mechanism for SPS reporting and monitoring so local producers can see the newly adopted legislation and the financial costs for its implementation.
- Promoting and raising awareness about the benefits of traceability, as part of the harmonisation of the legislation to the EU acquis.
- Increasing the transparency of the decision-making process and the participation of local producers and representatives of business associations from the agri-food sector.
Food safety regulations at a glance

Moldova is gradually implementing the strategic document, but it still lacks the financial and institutional resources needed to fully implement the SPS commitments. This is reflected in the significant delays to the implementation calendar of the legal harmonisation. A trackable action plan is urgently needed.

Institutional weakness in the key government agency (ANSA), in particular at the local level, the poor infrastructure of laboratories, and corruption cases involving phytosanitary certificates are serious constraints on the growth of the agri-food sector.

So far Moldova has only been able to export three categories of goods of animal origin to the EU: caviar, honey and egg flour, although other non-animal foods and wines have fared better.

Reform measures should focus on increasing the supervision and control capacities of ANSA over the entire food chain, including the functionality of the traceability tools.

In due course, high health and safety standards for Moldovan consumers will be assured, and Moldovan enterprises will be better positioned to export to the EU and other international markets.
9. SERVICES

The development of a modern and competitive services sector is of great importance for the modernisation of the Moldovan economy. In this regard, the DCFTA provides for a comprehensive liberalisation of establishment and trade in services, subject, however, to extensive reservations – more by the EU than Moldova.

Provisions of the Agreement

The provisions of the Agreement are organised under three headings: i) establishment, ii) cross-border supply of services, and iii) temporary presence of natural persons for business purposes.

Establishment. This entails the right of either enterprises (‘legal persons’) or individuals (‘natural persons’) to pursue business in the country of the other party. Enterprises may create or acquire branches or representative offices. Individuals may pursue their business through self-employment or set up undertakings that they control.

The Agreement provides for national treatment and MFN treatment for establishment. This means that, as regards the ‘established’ enterprises, the EU and Moldova must grant treatment no less favourable than that accorded to its own enterprises, or those of any third country, whichever is better.

For several economic activities, however, both the EU and Moldova have reservations that restrict national treatment or MFN
treatment. These reservations are laid down in the annexes to the Agreement (Annex XXVII-A and E) and essentially replicate the parties’ reservations under the GATS. Moldova has fewer reservations than the EU and its member states (see Table 9.1). Moldova’s liberal approach is mainly because it has only a few reservations at WTO level (i.e. in its Schedule of Specific Commitments on Trade in Services). It is important to note that these reservations in the DCFTA are listed in a negative list. This means that the EU and Moldova will open up all services sectors (i.e. the default position), except for those sectors listed where reservations apply (as detailed in the annexes). That approach guarantees automatic coverage for new services not listed as exceptions.

<table>
<thead>
<tr>
<th>EU party reservations</th>
<th>Moldova reservations</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU-wide reservations</td>
<td>Member state-specific reservations*</td>
</tr>
<tr>
<td>Horizontal reservations</td>
<td>2</td>
</tr>
<tr>
<td>Sectoral reservations</td>
<td>30</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>161</strong></td>
</tr>
</tbody>
</table>

* The number of member state-specific reservations stands for the number of reservations that are being applied by different EU member states.

The list of EU reservations is complicated because it includes both EU-wide and member state-specific reservations. With regard to horizontal reservations (i.e. reservations applying to all sectors or subsectors), important EU-wide reservations reflect concerns, for example, that economic activities regarded as public utilities may be subject to public monopolies. Several member state-specific reservations also exist for real-estate purchases. Numerous EU-wide or member state-specific reservations remain in the areas of

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1 For an overview of Moldova’s reservations under the GATS, see http://i-tip.wto.org/services/SearchResultGats.aspx.
agriculture and hunting, fishing, energy, mining, professional services, financial services, transport services, etc.

The Agreement also includes a standstill clause that forbids, subject to the reservations in the Annex, the EU and Moldova adopting new discriminatory regulations as regards the establishment of legal persons of the other party in comparison with their own legal persons. A soft commitment is included to further negotiate investment protection provisions and a mechanism for investor–state dispute settlement.

**Cross-border supply of services.** The DCFTA section on cross-border supply of services covers the supply of a service: i) from the territory of a party into the territory of the other party (GATS mode 1), and ii) in the territory of a party to a service consumer of the other party (GATS mode 2). Yet it does not apply to audiovisual services, national maritime cabotage or domestic and international air transport services. The EU and Moldova must grant market access and national treatment to services and service suppliers of the other party. In contrast to the section on establishment, however, the section on cross-border supply of services works with a *positive list*. This means that the EU and Moldova only make market access and national treatment commitments in those service sectors listed in the Annex.

In the sectors with market access commitments, the EU and Moldova are prohibited from limiting the following aspects:

i) the number of service suppliers (e.g. by quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test);

ii) the total value of service transactions or assets in the form of quotas or the requirement of an economic needs test; and

iii) the total number of service operations or the total quantity of services’ output by quotas or through the requirement of an economic needs test.

The sectors or subsectors liberalised, including the applicable market access and national treatment reservations, are listed in great detail in Annex XXVII-B (EU and its member states) and

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2 The conditions of mutual market access in air transport are covered by the bilateral Common Aviation Area Agreement (CAA) (explained in Chapter 16).
Annex XXVII-F (Moldova). Still, the liberalisation is, as with establishment, rather asymmetrical. Whereas Moldova only has a limited number of reservations for unbound service sectors in its list, the EU has numerous reservations (Table 9.2). Again, this is mainly due to Moldova’s liberal approach in the GATS.

Table 9.2 Market access and national treatment reservations for cross-border services*

<table>
<thead>
<tr>
<th>Services</th>
<th>EU**</th>
<th>Moldova</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mode 1</td>
<td>Mode 2</td>
</tr>
<tr>
<td>Business</td>
<td>79</td>
<td>22</td>
</tr>
<tr>
<td>Communication</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Construction and engineering</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Distribution</td>
<td>12</td>
<td>4</td>
</tr>
<tr>
<td>Educational</td>
<td>15</td>
<td>8</td>
</tr>
<tr>
<td>Environmental</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>Financial</td>
<td>33</td>
<td>11</td>
</tr>
<tr>
<td>Health and social services</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Tourism and travel-related</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Recreational, cultural and sporting</td>
<td>5</td>
<td>8</td>
</tr>
<tr>
<td>Transport</td>
<td>26</td>
<td>12</td>
</tr>
<tr>
<td>Other transport</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Energy</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>201</td>
<td>72</td>
</tr>
</tbody>
</table>

* EU-wide and member state-specific reservations are grouped together. The number of member state-specific reservations represents the number of reservations that are being applied by different EU member states.

** EU-wide reservations or member state-specific reservations.

Temporary presence of natural persons for business purposes.

This section covers measures of the parties concerning the entry into and temporary stay in their territory of categories of natural persons for business purposes (GATS mode 4), such as key personnel (i.e. senior personnel responsible for the setting up or operation of an establishment), graduate trainees, business sellers or independent
professionals (i.e. those engaged in the supply of a service and established as self-employed for such purposes).

With regard to key personnel and graduate trainees, both the EU and Moldova have to allow entrepreneurs of the other party to employ in their establishment natural persons of that other party, provided that such employees are key personnel or graduate trainees. The temporary entry and temporary stay of key personnel and graduate trainees will be for a period of no longer than 3 years for intra-corporate transferees, 90 days in any 12-month period for business visitors for establishment purposes, and 1 year for graduate trainees. Each party will also allow the entry and temporary stay of business sellers of the other party for a period of no longer than 90 days in any 12-month period. However, for these three categories (i.e. key personnel, graduate trainees and business sellers), the EU and its member states will apply reservations (177 in total), such as the requirement of an economic needs test, residency requirements and nationality conditions. In line with its GATS commitments, Moldova has again taken a much more liberal approach, with only 7 reservations (6 in the area of legal services and 1 in the area of services provided by midwives, nurses and paramedical personnel).³

The DCFTA also liberalises services provided by contractual service suppliers in specific sectors. Each party must allow the supply of services into their territory by contractual service suppliers of the other party. Nevertheless, this liberalisation is subject to several conditions and reservations. Among the most important conditions, for example, is the requirement that the natural persons must be engaged in the supply of a service on a temporary basis as employees of a juridical person, who has obtained a service contract not exceeding 12 months. Moreover, they must have at least three years’ professional experience in the relevant sector and a university degree or qualification demonstrating knowledge of an equivalent level and relevant professional qualifications. The reservations (mostly residency

³ For the lists of reservations on key personnel, graduate trainees and business sellers, see Annex XXVII-G (Moldova) and Annex XXVII-C (EU and EU member states).
requirements or economic needs tests) are listed in the annexes. The EU party has again more reservations than Moldova. Whereas the EU has 73 reservations in 18 sectors, Moldova has only 7 reservations (again mainly in the area of legal services). Similar or identical conditions and reservations also apply to sectors for which the parties have liberalised the supply of services by independent professionals.

*Regulatory framework and internal market treatment.* The EU and Moldova also aim to tackle regulatory barriers to trade in those services sections where they have made specific commitments. For example, the DCFTA defines some basic rules for licensing (i.e. the process through which a service supplier or investor is required to obtain a licence from a competent authority before being allowed to supply a service). The DCFTA requires that licensing and licensing procedures proceed in a clear, transparent and pre-established manner, and that it is proportionate to a legitimate public-policy objective. Moreover, judicial, arbitral or administrative tribunals or procedures have to be established to review licensing decisions. These rules also apply to qualification requirements (i.e. requirements relating to the competence of a natural person to supply a certain service). The Agreement also envisages the mutual recognition of necessary qualifications and/or professional experience that natural persons must possess to provide a specific service. The EU and Moldova are obliged to encourage their relevant professional bodies to provide the Trade Committee with recommendations on mutual recognition of requirements, qualifications, licences and other regulations.

In four services sectors – postal and courier services, electronic communications, financial services, and international maritime transport – the DCFTA includes specific rules and procedures on regulatory cooperation. Moldova has committed to approximate the EU’s key legislation in these four services sectors

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4 See the EU’s reservations in Annex XXVII-D and Moldova’s reservation in Annex XXVII-H.

5 Authors’ own calculations in which EU-wide and member state-specific reservations are grouped together.

6 Sectors for the EU are: i) legal services, ii) architectural services, iii) engineering services, iv) computer services, v) management consulting services, and vi) translation services.
(included in Annex XXVIII). Although the Agreement does not strictly oblige Moldova to approximate the EU legislation, it states that “each Party recognises the importance of the gradual approximation of the Republic of Moldova’s existing and future legislation to the list of the Union acquis set out in Annex XXVIII”.7 The DCFTA links implementation of these approximation commitments with further market access.8 The Trade Committee can decide to review and modify the annexes with reservations in these four sectors if Moldova implements the relevant EU legislation. The potential scope of further liberalisation is not specified in the Agreement, but the DCFTA concluded with Ukraine gives some guidance. In the Ukraine DCFTA, the Trade Committee may decide to grant the reciprocal ‘internal market treatment’ with respect to these four services sectors. In practice, this means that for these specific sectors, the reservations of the EU and Ukraine to market access and national treatment, listed in the corresponding annexes, will be lifted. An overview of the commitments and reservations made by the two parties is given in Box 9.1.

Box 9.1 Summary of commitments and reservations of the EU and Moldova for services sectors

<table>
<thead>
<tr>
<th>EU</th>
<th>Reservations on establishment: <em>substantial horizontal and sectoral reservations</em></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Commitments on liberalisation of the cross-border supply of services: <em>large degree of liberalisation, but with extensive reservations</em></td>
</tr>
<tr>
<td></td>
<td>Commitments on contractual services and independent professionals: <em>extensive reservations</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Moldova</th>
<th>Reservations on establishment: <em>large degree of liberalisation with few reservations</em></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Commitments on liberalisation of the cross-border supply of services: <em>almost full liberalisation</em></td>
</tr>
<tr>
<td></td>
<td>Commitments on contractual services and independent professionals: <em>almost full liberalisation</em></td>
</tr>
</tbody>
</table>

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7 See Arts 230, 240, 249 and 253.
8 See for example Art. 213.
Updating Annex XVII and developments in EU law and policy. As with the chapter on trade in goods, the chapter on services and establishment includes a review clause that allows the parties to progressively deepen liberalisation by reviewing the annexes including the numerous reservations to market access and national treatment applicable to trade in services and establishment (Article 213). However, using this clause is not yet being considered by the EU.

With regard to updating the legislative approximation commitments in the area of services and establishment, it has to be noted that the numerous EU legislative acts for approximation listed in Annex XXVIII covering postal and courier services, financial services, telecommunication services and international maritime transport have become outdated. The Commission has notified Moldova about the relevant changes in EU law and the Trade Committee has adopted several decisions to update this Annex. In the case of international maritime transport, the EU-Moldova Association Council adopted Decision 2/2019 updating Annex XXVIII-D on Rules applicable to international maritime transport. This new Annex updates several listed EU acts and includes several new implementing Commission Decisions, which specify and implement the legislation included in the Annex. The EU and Moldova also updated the Annex in relation to telecommunication services (Decision 1/2019) and have agreed to update their respective financial services annexes.\footnote{The agreed draft new Annex on financial services still requires formal adoption by the Trade Committee European Commission (see Proposal for a Council Decision on the position to be taken on behalf of the European Union, in the Association Committee meeting in Trade configuration concerning the update of Annex XXVIII-A (Rules applicable to financial services), Annex XXVIII-B (Rules applicable to telecommunication services) and Annex XXVIII-D (Rules applicable to international maritime transport) to the Agreement (COM/2017/0754 final).} In view of their complexity and importance, the four subsectors indicated above are discussed in more detail below in their respective separate chapters.

Implementation perspectives

Opportunities through services liberalisation. At almost 60% share of GDP, services constitute the most important sector. Balance of payments data for 2019 indicate that Moldova is a net exporter of
services, with a surplus amounting €315 million, which represents 2.9% of GDP. The most significant share in the value of both imports and exports of services is held by transport services, followed by tourism, manufacturing services, telecommunications, computer and information services. Table 9.3 gives further data.

**Table 9.3 EU trade in services with Moldova, 2017-18 (€ million)**

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2018</th>
<th>% change 2018/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU exports</td>
<td>453</td>
<td>472</td>
<td>4.2</td>
</tr>
<tr>
<td>EU imports</td>
<td>661</td>
<td>938</td>
<td>41.9</td>
</tr>
<tr>
<td>Total trade</td>
<td>1.114</td>
<td>1.410</td>
<td>26.6</td>
</tr>
<tr>
<td>Trade balance</td>
<td>-208</td>
<td>-466</td>
<td>-</td>
</tr>
</tbody>
</table>

*Source: OECD statistics.*

In the context of DCFTA liberalisation, new opportunities for Moldova in this sector could be created by expanding its output of services in sectors where it has a comparative advantage, thus creating jobs, contributing more to GDP and generating foreign exchange. The major obstacle to developing services are the shortage of investments and the scarcity of qualified labour. The continuous emigration of the labour force, especially the ‘brain drain’, leads to an insufficient supply of labour with respect to demand. Therefore, it is necessary to fill this gap by attracting and employing foreign citizens while at the same time respecting the minimum conditions for the protection of the local labour force. Although the Covid-19 pandemic caused Moldovan migrants to return, they are not considered a stable source of labour as they will leave again once the pandemic slows down in the destination countries.

**Regulatory challenges for services liberalisation.** The complexity and comprehensiveness of the sector means that the prospects for liberalising Moldova’s services are quite varied. One of the challenges of services liberalisation arises from the many remaining barriers represented by domestic regulations inherited from the past. Addressing market access and national treatment barriers will not lead to an automatic expansion of this sector unless domestic regulations are also reformed. Initiatives are being taken
according to the existing commitments, and by transposing relevant EU legislation on services.

At the horizontal level, in November 2018, the Law on the modernisation of the Civil Code\textsuperscript{10} updated the legal framework regulating the right of establishment in accordance with international practices. There are also initiatives\textsuperscript{11} to identify potential contradictions with commitments under the Agreement. Cross-border supply of services is one of the areas of high interest.

With regard to Moldova’s approximation to the EU \textit{acquis} in the four sectors discussed above, progress has been made in the area of postal services and financial services. In the area of international maritime transport services and telecommunication services, progress is slow, and Moldova needs to move on with this, especially after updating Annex XVII.

Notably, the positive changes in the financial services sector have been determined by the post-banking fraud endeavours. Banking governance and risk management have been strengthened, and efforts to remove unfit shareholders and improve the financial shape of banks are part of the 2018 Law on banking activity.\textsuperscript{12} The deposit insurance scheme also obtained a boost from extending the scope of deposit insurance and the level of coverage it can provide, including by raising the fund financing. Additionally, the macro-financial stability framework improved after the adoption of the 2018 Law on the Financial Stability Committee\textsuperscript{13} (more details in the chapter on financial services).

However, a number of shortcomings remain in the insurance sector, and the rapidly growing volume of credit by non-bank credit institutions raises concerns. The insurance market is affected by weak internal governance, low capitalisation, overvalued assets, underestimated technical provisions, avoidance in the payment of claims, artificially lowered prices of insurance policies and the creation of companies solely for reinsurance activities. The new

\textsuperscript{10} See https://www.legis.md/cautare/getResults?doc_id=34327&lang=ru.
\textsuperscript{11} See National Action Plan for implementation of the EU – Moldova Association Agreement 2017-19.
\textsuperscript{12} See https://www.legis.md/cautare/getResults?doc_id=121176&lang=ro#.
\textsuperscript{13} See https://www.legis.md/cautare/getResults?doc_id=109735&lang=ro.
amendments to the Insurance Law\textsuperscript{14} raised concerns about the limitations of brokerage activities and the risk of putting monopolisation on the market. By contrast, the 2018 Law on non-banking credit organisations\textsuperscript{15} fortifies the governance, risk management and consumer protection in the field.

The communications sector in Moldova has been almost the only one with limitations for establishment. This opening up of the electronic communications market began with the gradual alignment of the Moldovan legal and regulatory framework with EU legislation. Legislative harmonisation has been carried out on the basis of EU Directives on access and interconnection (2002/19/EC), authorisation of networks and services (2002/20/EC), regulatory framework (2002/21/EC) and universal service (2002/22/EC). An important development in this area was the approval in March 2016 of a new Law on postal services,\textsuperscript{16} which provides further demonopolisation of the postal sector. According to its provisions, the state monopoly remains only for services related to letters with a weight limit of up to 350 grams, as required by EU postal Directive 97/67/EC and in line with Moldova’s GATS commitments.

Amendments in 2017 and 2018 to the Law on electronic communications\textsuperscript{17} were also important achievements that transposed the provisions of six EU Electronic Communications directives. Likewise, the Law on electronic commerce\textsuperscript{18} amended in 2018 includes new provisions including the obligations of service providers regarding the protection of personal data; establishing the principles of regulation of electronic commerce; resolving disputes; determining responsible state institutions; and introducing the responsibility of service providers.

\textit{Temporary presence of natural persons for business purposes.} The liberalisation of GATS mode 4 services can bring benefits for Moldova by facilitating work in the EU by different service providers (nurses, teachers and domestic workers, as well as more

\textsuperscript{14} See https://www.legis.md/cautare/getResults?doc_id=120925&lang=ro.
\textsuperscript{15} See https://www.legis.md/cautare/getResults?doc_id=121063&lang=ro#.
\textsuperscript{16} See https://www.legis.md/cautare/getResults?doc_id=121211&lang=ro#.
\textsuperscript{17} See https://www.legis.md/cautare/getResults?doc_id=112412&lang=ro.
\textsuperscript{18} See https://www.legis.md/cautare/getResults?doc_id=99326&lang=ro.
skilled professionals, such as medical doctors, architects and engineers), resulting in remittances of income, which is the largest source of external capital in Moldova. The country will also benefit from the enhanced skills and resources of returning migrants. However, as mentioned above, the EU will apply several reservations, such as the requirement of an economic needs test, residency requirements and nationality conditions. Brain drain is also a concern as skilled individuals are more likely to emigrate. For its part, the pandemic changed the rules of the game, with restrictions in the initial phase targeting virtually all categories of physical persons. These conditions were later relaxed for foreigners with business in the country, but less so for those independent professionals subject to special conditions.

The new migration law\(^\text{19}\) that merges the Law on labour migration and the Law on regime of foreigners established a unique framework for the activity of foreigners on the territory of Moldova. This can help attract foreign investments by applying simplified procedures and optimal documentation terms for foreign workers, as provided in the Agreement. Even if the legislation was amended, the economic needs test (ENT) for some categories of natural persons, stipulated both in the legislation and in the Agreement, is still applied.

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\(^{19}\) See https://www.legis.md/cautare/getResults?doc_id=112287&lang=ro.
Services at a glance

The services sector has become increasingly important for Moldova’s economy and now accounts for around 60% of the country’s GDP. In contrast to foreign trade in goods that steadily registers a significant deficit, the trade in services makes a positive contribution to the current account of Moldova’s balance of payments.

The DCFTA requirements can lead to a more open, transparent and better-functioning services market in Moldova, with positive effects for both consumers and providers.

Progress has been made in the area of postal services and financial services. In the areas of international maritime transport services and telecommunication services, however, progress is slow. Moldova needs to make more progress, especially after updating Annex XVII.

The liberalisation of the temporary presence of natural persons for business purposes can lead to increased remittances, but the EU applies several reservations in this area. This also increases the incidence of ‘brain drain’.
10. PUBLIC PROCUREMENT

Public procurement is of great economic importance in both the EU and Moldova. It accounts for around 18% of GDP in the EU and offers enormous potential market for Moldovan companies. The DCFTA provides for the gradual and reciprocal liberalisation of the parties’ public procurement markets under the strict condition that Moldova implements the EU’s key public procurement rules. Moldova must ensure that public purchases of goods, works and services are transparent and fair, guarantee sound competition, tackle corruption and ensure that public authorities get the best value for their taxpayers’ money.

Provisions of the Agreement

In the DCFTA chapter on public procurement, the EU and Moldova envisage mutual access to their respective public procurement markets on the basis of the principle of national treatment at national, regional and local levels for public contracts and concessions in the traditional sectors as well as in the utilities sector. It covers any state, regional or local authority, including public undertakings in the field of utilities such as state-owned enterprises and private undertakings operating on the basis of special and exclusive rights. Defence procurement, however, is not covered by the DCFTA.

The DCFTA procurement rules only apply to contracts above certain value thresholds listed in Annex XXIX-A of the Agreement. As foreseen in the Agreement, however, these thresholds have been
updated to reflect the thresholds under the new EU public procurement directives adopted in 2014 (see below). In October 2016, the joint EU-Moldova Trade Committee adopted the new thresholds (see Table 10.1).

Table 10.1 Adjusted thresholds for the application of public procurement rules (as updated by the Trade Committee in 2016)

<table>
<thead>
<tr>
<th>Public procurement rule</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Public supply and service contracts awarded by central government authorities and design contests awarded by such authorities</td>
<td>€134,000</td>
</tr>
<tr>
<td>b. Public supply and public service contracts not covered by point (a)</td>
<td>€207,000</td>
</tr>
<tr>
<td>c. Public works contracts</td>
<td>€5,186,000</td>
</tr>
<tr>
<td>d. Works contracts in the utilities sector</td>
<td>€5,186,000</td>
</tr>
<tr>
<td>e. Concessions</td>
<td>€5,186,000</td>
</tr>
<tr>
<td>f. Supply and service contracts in the utilities sector</td>
<td>€414,000</td>
</tr>
<tr>
<td>g. Public service contracts for social and other specific services</td>
<td>€750,000</td>
</tr>
<tr>
<td>h. Service contracts for social and other specific services in the utilities sector</td>
<td>€1,000,000</td>
</tr>
</tbody>
</table>

The DCFTA includes provisions relating to: i) institutional reforms and the award of procurement contracts, ii) Moldova’s approximation to the EU’s public procurement law, and iii) market access.

Institutional reform. Moldova must establish and maintain an appropriate institutional framework necessary for the proper functioning of its public procurement system. It has to designate a central executive body responsible for economic policy tasked with guaranteeing a coherent policy in all areas related to public procurement, including implementation of this chapter. In addition, Moldova must establish an impartial and independent body that will review decisions taken by contracting authorities or entities during the award of contracts.

1 Decision No 2/2016 of the EU–Republic of Moldova Association Committee in Trade Configuration of 19 October 2016.
Award of contracts. The DCFTA also defines “basic standards regulating the award of contracts”, which are derived directly from EU public procurement law and include the principles of non-discrimination, equal treatment, transparency and proportionality. Moldova has to comply with these basic standards no later than nine months from the entry into force of this Agreement. This set of rules lays down key publication requirements. Moldova must ensure that all intended procurements are properly published and made public to enable the market to be opened up to competition and to allow any interested economic operator to have access to information regarding the intended procurement prior to the award of the contract. There has to be a non-discriminatory description of the subject matter of the contract, equal access for all economic operators, and appropriate time limits. Contracting entities may not impose discriminatory conditions, such as the requirement that economic operators interested in the contract must be established in the same country, region or territory as the contracting entity. Contracts must be awarded in a transparent manner to the applicant who has submitted the economically most advantageous offer or the offer with the lowest price, based on tender criteria. The final decisions are to be communicated to all applicants and upon the request of an unsuccessful applicant, while the reasons must be provided in sufficient detail to allow a review of the decision.

Developments in EU law and policy. According to the initial provisions of the Agreement, Moldova was obliged to approximate to Directive 2004/18 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts and to Directive 2004/17 on coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (i.e. utilities). In 2014, however, the EU adopted a new legislative package on public procurement, which replaced Directives 2004/17 and 2004/18.2 These new directives aimed to simplify the EU procurement regime, introduce more flexibility, establish better access to EU procurement markets

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for SMEs and ensure that greater consideration is given to social and environmental criteria. Moreover, a specific directive is adopted on the award of concession contracts. This legislative package was adopted in February 2014, and the member states had until April 2016 to transpose the new rules into national law. To catch up with these new EU public procurement rules, the EU-Moldova Trade Committee adopted a decision to amend the entire Annex XXIX. The new acts for approximation are Directive 2014/23 on the award of concession contracts, Directive 2014/24 on public procurement, and Directive 2014/25 on procurement by entities operating in the water, energy, transport and postal services sectors. Yet these directives do not have to be implemented in their entirety or at once. Annexes from XXIX-B to XXIX-S divide these directives into ‘basic’, ‘mandatory’ and ‘non-mandatory’ elements (i.e. ‘recommended’ for approximation) and elements ‘that fall outside the scope of legislative approximation’.

**Market access.** This is clearly linked to Moldova’s progress in approximating to EU public procurement rules and institutional reforms. Annex XXIX-B includes an ‘indicative time schedule’ for institutional reform, legislative approximation and market access, which was also adjusted in 2016 together with the update of the annexed public procurement directives. This time schedule foresees four phases for Moldova to implement EU public procurement directives, and the specific market access that Moldova and the EU will grant to each other (Table 10.2). The market access provided in each phase means that the EU will grant access to contract award procedures to Moldovan companies – whether they are established or not in the EU – pursuant to EU public procurement rules under treatment no less favourable than that accorded to EU companies, and vice versa. This schedule also indicates that the EU and Moldova will open their respective procurement markets gradually and simultaneously. Contrary to other DCFTA chapters (e.g. on trade in goods), the EU will not grant access to (a section of) its procurement market before Moldova offers the same market access to the EU. Moreover, each phase will be evaluated by the Trade Committee and the reciprocal granting of market access will only

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take place after a positive assessment by this committee, which will take into account the quality of Moldova’s legislation as well as its practical implementation. The Trade Committee will only proceed to the evaluation of a next phase once the measures to implement the previous phase have been carried out and approved.

Prior to the beginning of legislative approximation, Moldova had to submit to the Trade Committee a ‘comprehensive roadmap’ for the implementation of this procurement chapter, covering all reforms in terms of legislative approximation and institutional capacity building. This roadmap must comply with the four phases of the indicative schedule of Annex XXIX-B. In April 2018 the EU-Moldova Association Committee in Trade Configuration approved Decision 1/2018. This gave a favourable opinion regarding the National Strategy for Public Procurement for 2016-20 and the Action Plan for its implementation, which was adopted by the Moldova by Government Decision No 1332 of 14 December 2016.

Table 10.2 Adjusted indicative time schedule for approximation of public procurement rules

<table>
<thead>
<tr>
<th>Phase</th>
<th>Action</th>
<th>Indicative time schedule*</th>
<th>Market access granted to the EU by Moldova</th>
<th>Market access granted to Moldova by the EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Implementation of the ‘basic standards’, the institutional reforms and the public procurement roadmap</td>
<td>9 months</td>
<td>Supplies for central government authorities</td>
<td>Supplies for central government authorities</td>
</tr>
<tr>
<td>2</td>
<td>Approximation and implementation of basic elements of Directive 2014/24/EU and Directive 89/665/EEC</td>
<td>5 years</td>
<td>Supplies for state, regional and local authorities and bodies governed by public law</td>
<td>Supplies for state, regional and local authorities and bodies governed by public law</td>
</tr>
<tr>
<td></td>
<td>Approximation and implementation of basic elements of Directive 2014/25/EU and Directive 92/13/EEC</td>
<td>5 years</td>
<td>Supplies for all contracting entities in the utilities sector</td>
<td>Supply for all contracting entities</td>
</tr>
</tbody>
</table>
Approximation and implementation of other elements of Directive 2014/24/EU | 5 years | Service and works contracts for all contracting authorities | Service and works contracts for all contracting authorities |
--- | --- | --- | --- |
3 | Approximation and implementation of Directive 2014/23/EU | 6 years | Concessions for all contracting authorities | Concessions for all contracting authorities |
--- | --- | --- | --- |
4 | Approximation and implementation of other elements of Directive 2014/25/EU | 8 years | Service and works contracts for all contracting entities in the utilities sector | Service and works contracts for all contracting entities in the utilities sector |
--- | --- | --- | --- |

* From the entry into force of the DCFTA

**Implementation perspectives**

The public procurement system and legislation of Moldova have been continuously developing since 2014, with three distinct periods: modernisation of the legal framework, digitalisation of public procurement, and approximation to the EU’s public procurement law. Operational responsibility for policy development is delegated to statutory agencies, which since 2009 has been the Public Procurement Agency. The Agency was established by Government Decision No 747 of 24 November 2009, which regulated its organisational structure and competences. In 2017 a new Regulation governing the activity of the Agency was approved by Government Decision No 134 of 9 March 2017. According to new legal provisions, the Agency represents a specialised administrative authority with functions of coordination, overseeing, and ex post control of the public procurement procedures, including the award of public contracts. The Agency has supervisory competences and is not seen as a policy initiator in the area of public procurement, but has an important role in providing technical and legal inputs to policy process. The responsibility for harmonising public procurement legislation lies with the Ministry of Finance.

At first glance, the economic importance of government procurement in Moldova may seem rather meagre in comparison
with EU countries. In the previous decade the share of public procurement in Moldova (in GDP) varied between 5% and 10%, never attaining the EU average values of 18%.\(^4\) Total public contracts increased from Moldovan leu (MDL) 4,523 million (around €220 million) in 2009 to MDL 10,508 million (around €625 million) in 2018.\(^5\) However, the real numbers of public procurement are underestimated by the Public Procurement Agency in its reports because data on small value contracts are not included, which may account for a comparable value with the procurement over the thresholds.

In the Association Agreement, 2019–20 was given as the timeline to transpose the EU Directive on Public Procurement in the utilities sector; this was achieved – with some delay – by adoption legislation in 2020. Furthermore, there were plans to develop a legal framework for procurements by state-owned enterprises (SOEs), which had not been completed by 2020. Also, the list of the EU’s conditions for the Covid-19 €100 million macro-financial assistance (MFA), scheduled in two tranches between 2020 and 2021, includes the improvement of procurement in the health sector. Latest legal approximations to EU procurement legislation and the implementation of M-Tender, a new e-procurement system, have contributed to positive changes in this field. Nevertheless, there are still legal loopholes and technical problems with M-Tender that impede the efficient and transparent implementation of public procurement procedures.

**Legal framework.** The first Law on procurement of goods, works and services for public needs (No 1166-XIII) was adopted in 1997 and provided a reasonably sound basis for public procurement. Shortly after the enactment of the Law, the government established the National Agency for Public Procurement, the first entity responsible for public procurement. However, the problems of weak institutional capacity, a high degree of centralisation and insufficient enforcement of the law regarding public procurement hindered development in this area.

To address these problems, but also to approximate to the EU standards, Parliament adopted Law No 96-XVI on public procurement.

\(^4\) Reports on activity of the Public Procurement Agency of the Republic of Moldova.
\(^5\) Ibid.
procurement in April 2007. The new Law changed the conduct of public procurement by decentralising procurement procedures to the municipality and district level. However, this decentralisation has meant that the number of contracting authorities has risen to over 3,000, and the lack of resources to be able prepare a sufficient number of public procurement specialists and to coordinate the activity of so many public procurement authorities has created a challenge.

While the Law on public procurement was generally developed in line with the relevant EU directives, a number of additional specific concepts were incorporated into it. The Law provided measures to ensure integrity in public procurement processes, namely:

- a national procurement system based on principles of transparency, competition and objective criteria in decision-making,
- establishment of the conditions for participation, selection and award criteria, and tendering rules,
- sufficient timeframes for potential suppliers to prepare and submit their tenders and using by default an open tender procedure,
- transparent publication of all procurement decisions and invitations to tender,
- procedures, rules and regulations for review of the procurement process, including appeal,
- selection of personnel responsible for procurement, including screening procedures covering conflicts of interest,
- development of new electronic procedures applied to the public procurement process.

Moreover, it should be noted that the Law on public procurement of 2007 defined the principles for regulating public procurement relations. It clearly defined the types of public procurement, the rules and procedures for awarding public procurement contracts and the ways of solving disputes, focusing on the rights and obligations of the parties participating in public procurement procedures. But the Law of 2007 did not introduce all the provisions of EU Directive 2004/18/EC. It introduced
provisions on domestic preference, an electronic procedure (e-procurement), short deadlines for tender submission and a complaints procedure.

Finally, in July 2015, Parliament adopted a new Law on public procurement (No 131), which was one of the prerequisites for the accession of the country to the WTO Agreement on Government Procurement. This Law partially implemented Directive 2014/24/EU and Directive 89/665/EEC. This created the possibility for contracting authorities to award contracts not only on lowest prices, but also on other qualitative criteria, as well as the introduction of specific procedural measures to ensure transparency and equal treatment (e.g. to allow representatives of civil society to participate in tender commissions). In accordance with Association Agreement commitments, a new Law was approved in 2020 on procurement by entities operating in the water, energy, transport and postal services (No 74 of 21 May 2020). This legal act transposes basic principles of the Directive 2014/25/EU and will enter into force 12 months after its publication in the Official Journal, i.e. in June 2021. Also, in the Action Plan for implementation of the Association Agreement, an obligation to adopt standardised rules of procurement for SOEs was included, but this commitment so far only appears in a draft regulation. This draft regulation on procurement of goods, works and services in SOEs was not approved in the expected timeframe, owing to, inter alia, resistance from SOEs.

**Digitalisation of public procurement (e-procurement).** The digitalisation of public procurement started in 2009, when the government adopted a technical concept of the State Information Automated System for Public Procurement Register (SIAS). The SIAS only started to be fully implemented in 2012, because of lack of financing, and has slowly gained pace since. A clear regulatory framework has been approved with the adoption of the regulation on using the electronic auction. This implements EU standards and facilitates the analysis of the prices for the offers. Broadly, the electronic auction is designed to increase the transparency of public procurement and requires the operators to properly register in the
electronic system. The e-procurement portal was further developed and new functionalities added, such as the announcement of intended procurement activities, the availability of electronic bidding documents, the automated public procurement bulletin and the generation of an electronic bid template for economic operators.

Despite efforts to modernise and expand the application of the SIAS, it still remained an underdeveloped and underutilised tool. By 2016, only 311 contracting authorities out of around 3,000 were registered in the SIAS and performed procurement through the system. Neither were the technical capabilities of the SIAS upgraded. Notably, the system was unable to provide a transparent, analytical and intelligent platform for all participating parties in the tender. To improve the situation, the Ministry of Finance started to test M-Tender in 2016, with technical and financial assistance of EBRD. This began to be used by almost all contracting authorities in test mode in late 2018, after the adoption of a technical concept by Government Decision No 705 of 11 July 2018. But M-Tender has still not been finalised, and being in experimental mode creates technical and legal hurdles for contracting authorities. First of all, not all envisaged technical functions of the system were finished in due time and this forced the authorities to allow exceptions and temporary use of the older version of SIAS. Second, not all regulations were adjusted to correspond to the technical concept of M-Tender. With political vicissitudes in Moldova causing delays, the EU launched the “Technical Assistance for Developing an e-procurement System in the Republic of Moldova” project in 2019. This aims to remove the deficiencies of the e-procurement by conducting a technical and legal audit of M-Tender and devising recommendations.

**Approximation process and related reforms.** The Ministry of Finance, together with Twinning project partners, developed the new Law on public procurement that came into force in May 2016 (Law No 131 of July 2015). As mentioned above, it ensures the implementation of Directive 2004/18/EC, thus promoting

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6 See the Public procurement regulation on using the electronic auction approved by Government Decision No 774 of 4 October 2013.

Deepening EU–Moldovan Relations

transparency, comprehensiveness and competition in accordance with EU standards. The law also transposes Directive 2007/66/EC, which provides for rules aimed at clear and effective procedures for seeking redress where bidders consider that contracts were unfairly awarded. In particular, an independent appeals body was planned (the National Complaint Settlement Agency). However, the one-year delay before this was established in September 2017 heightened the risks of corruption in the sector and undermined private sector confidence in the impartiality of the new agency. Establishment of this agency was also one of the conditions for the EU MFA of €100 million in 2017–18.

The Law on public procurement has been amended several times in recent years in accordance with the Association Agreement provisions. The most significant changes were in 2018 during the transposition of Directive 2014/24/EU and Directive 89/665/EEC. This led to a revision of the terminology on public procurement, changes in the Public Procurement Agency’s attributions, introduction of the European single procurement document (ESPD) and new price–quality evaluation criteria. Other important amendments included life-cycle cost estimations in public procurement, a new set of more transparent communications and digitalisation, and market assessment before the initiation of the acquisition. Finally, new procurement procedures for public procurement of social services and partnerships for innovations were introduced. To enhance the applicability and functionality of the new Law, a large set of normative acts has been approved (18 normative acts of secondary legislation between 2016 and 2020). Moreover, the Minister of Finance approved a large amount of standardised documentation for all procedures of public procurement.

Under the new Law, public contracts are awarded without any discrimination against foreign suppliers. In this way, the government has shown its commitment to opening its procurement markets to international competition. Moldova submitted a formal request to join the WTO Government Procurement Agreement (GPA) in November 2009 and renewed its request in 2013. Since 2014, Moldova has accelerated its negotiations to accede to the GPA

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8 See Law No 169 of 26 July 2018.
by gradually expanding its market access offer and fully engaging in legal reforms to bring its legislation in line with GPA rules. As a result, in September 2015 the WTO Committee on Government Procurement approved the terms of Moldova’s accession. It gave Moldova six months, until mid-March 2016, to submit its instrument of accession but this deadline was missed as the Parliament was not able to ratify it. The Committee extended the deadline and Moldova subsequently submitted the ratification documents in June 2016 and thus became a member of the WTO GPA.

Challenges for Moldova’s system. In recent years, significant efforts to modernise the public procurement system of Moldova according to best EU standards and practices have been made, but there are still significant challenges ahead. The problems were defined in the Strategy of Public Procurement System for 2017–20. Among the most pressing challenges are the efficient implementation of the new e-procurement system; the need to slash the large number of procuring entities by 75%; and the weak institutional capabilities of the contracting authorities. The objective for establishing a new functioning and efficient electronic system has not been achieved in the foreseen timeframe and this remains among the top challenges. Also, the introduction of M-Tender has generated a number of legal loopholes and contradictions, which still hinder smooth implementation of procurements. All these challenges stem from the internal resistance to changing the institutional status quo on the part of those central and local officials that are prone to corruption and opposed to a more transparent procurement system. Weak institutional capacities bring additional problems. Another important factor that undermines smooth and rapid reforms in public procurement in Moldova is the pervasiveness of political clientelism in the distribution of public money.
Public procurement at a glance

Moldova has already taken significant steps to bring its public procurement system into compliance with EU laws and best international practices, with a new law adopted in 2015. Legal, institutional and procedural changes have been made, albeit with some delays.

There have been further reforms for approximation to EU norms in accordance with the DCFTA, especially by transposing new EU directives on procurement.

Mutual market access provisions of the DCFTA require agreement by the EU-Moldova Trade Committee to resolve remaining deficiencies in the public procurement system.

Among the main problems are how to ensure the proper implementation of the new electronic system, M-Tender, which continues to be in test mode after several years of development. Other remaining challenges include the need to cut the huge number of contracting authorities, and to strengthen the institutional capacities of all contracting entities.
11. INTELLECTUAL PROPERTY RIGHTS

The protection of intellectual property is important for promoting innovation and creativity in our knowledge-based economies, and for developing employment and improving competitiveness. The DCFTA requires Moldova to modernise its system on intellectual property rights (IPRs). Reforms will contribute to a stable and enforceable legal environment to protect IPRs, which is also crucial for attracting foreign investment and supporting the technological modernisation of the economy.

Provisions of the Agreement

The DCFTA chapter on IPRs seeks to facilitate the production and commercialisation of innovative products while guaranteeing an adequate level of protection and the enforcement of IPRs. It complements Moldova’s obligations under the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS establishes minimum levels of protection that each government has to give to the intellectual property of fellow WTO members. The DCFTA confirms these WTO rules and goes beyond them in several areas. This has important implications for Moldova, as in principle it has to extend these ‘TRIPS-plus provisions’ to all WTO members in accordance with the TRIPS MFN clause (Art. 4 TRIPS).
Contrary to other DCFTA chapters, the section on IPR does not oblige Moldova to approximate a selection of the EU’s IPR legislation annexed to the Agreement. However, the main text of the DCFTA is very detailed, and its provisions reflect – or sometimes copy – several principles and procedures of the EU’s IPR legislation. The DCFTA lays down rules on copyrights, trademarks, geographical indications (GIs) and designs, including detailed enforcement provisions.

**Copyrights.** The parties must comply with several international conventions and agreements (e.g. the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, the Berne Convention for the Protection of Literary and Artistic Works and the Copyright Treaty of the World Intellectual Property Organization (WIPO)). With regard to the duration of authors’ rights, the DCFTA states that the rights of an author of a literary or artistic work have to be protected for 70 years after his/her death.\(^1\) The Agreement also covers broadcasting and communication to the public, the protection of technological measures and rights of management information and release rights. A provision on cooperation on collective management of rights goes beyond the TRIPS Agreement but only envisages (i.e. a soft commitment) that the parties’ ‘collecting societies’\(^2\) conclude agreements with each other in order to promote the availability of works, as well as to ensure the mutual transfer of royalties for the use of such works.

**Trademarks.** The DCFTA mainly requires accession to, and implementation of, such international agreements as the WIPO Trademark Law Treaty, the Protocol relating to the Madrid Agreement concerning the International Registration of Marks, and the Singapore Treaty on the Law of Trademarks. Moldova has already acceded to each of these international agreements. Nevertheless, the country must establish a fair and transparent system for the registration of trademarks in which any refusal by

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1[^1]: Provision transposed into national legislation by Law No 212 of July 2016 to amend Law No. 139 of July 2010 on copyright and related rights.

2[^2]: More specifically, these are authorities established under national IPR law that represent the holders of a certain IPR, and who have the responsibility to administer the IPRs of its members, such as collecting societies responsible for collection of copyright royalties for musicians.
the relevant trademark administration is communicated to the applicant in writing and duly reasoned. Moldova must also provide a publicly available electronic database of trademark applications and registrations.³

**Geographical indications (GIs).** The text of the Agreement recognises that Moldova’s IPR legislation (e.g. Law No 66-XVI of March 2008 on the Protection of Geographical Indications, Designations of Origin, and Traditional Specialties Guaranteed) already meets the required conditions with regard to registration and control of GIs, and therefore does not require further legislative approximation to the EU *acquis*. The Association Agreement annexes contain an elaborate list of GIs of agricultural products, foodstuffs and types of wines and spirit drinks of both parties (for the EU, e.g. prosciutto di Parma, champagne and feta cheese), which will be protected against any direct or indirect commercial use or misuse of a protected name for comparable products. This list was largely taken over from a bilateral agreement between the EU and Moldova, concluded in 2013, which is now replaced by the DCFTA.⁴ A specific subcommittee on GIs will monitor the implementation of these provisions and report to the Trade Committee. The DCFTA provided for the possibility of adding new GIs to be protected, which happened in October 2016 when the subcommittee made this addition by amending the relevant annexes (i.e. Annex XXX-X and D).⁵

**Designs and patents.** Moldova must also provide for the protection of independently created designs that are new and have individual character. The protection will be provided by registration and will confer on the holder the exclusive right to use the design and to prevent third parties from using, making or offering it, putting it on the market, or importing or exporting it without his/her consent. The duration of protection available will be 25 years from the date of filing the application for registration.

³ Such an electronic database is already publicly available and is continuously being improved (http://www.db.agepi.md/).

⁴ See the Agreement between the European Union and the Republic of Moldova on the protection of geographical indications of agricultural products and foodstuffs, OJ L 10/3, 15.1.2013. See also Art. 456(3) of the Association Agreement.

⁵ Decision No 1/2016 of the EU-Republic of Moldova Geographical Indications Sub-Committee amending Annexes XXX-C and XXX-D to the Association Agreement between the European Union and the Republic of Moldova.
Specific rules are provided for patents for medicinal and plant products. For example, the provisions on pharmaceutical data protection, which go beyond the TRIPS Agreement, require that Moldova implements a comprehensive system to guarantee the confidentiality, non-disclosure and non-reliance of data submitted for the purpose of obtaining an authorisation to put a medicinal product on the market.

**Enforcement of IPRs.** The Agreement has a strong section on the enforcement of IPRs. These commitments go beyond the TRIPS Agreement, but the complementary measures and remedies in the DCFTA must be fair and equitable and should not result in additional barriers to trade. The section on civil measures and procedures, which is largely based on the EU’s IPR Enforcement Directive,\(^6\) includes detailed procedural provisions on the judicial enforcement of IPRs (e.g. on transparency, procedural fairness, the right to information, measures for preserving evidence and publication of judicial decisions). Judicial authorities must have the competence to recall products from the market if they infringe an IPR or to order the destruction of those goods. Moreover, judicial authorities must be able to issue an injunction and penalty payments or pecuniary compensation payments against the infringer, with the aim of terminating the infringement. Provisions on the liability of intermediary service providers (e.g. online service providers) are also envisaged.\(^7\) These are copied from the EU’s e-Commerce Directive\(^8\) and provide for a ‘safe haven’ regime, under which certain types of intermediary service providers are exempted from liability for IPR infringements, under certain conditions.

**New EU legislation and policies**

Although the Association Agreement does not require Moldova to approximate to an annexed list of EU legislation, several recent developments in EU law and policy are relevant for the reform and

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\(^7\) These provisions are not included in the DCFTA chapter on establishment, trade in services and electronic commerce (Arts. 256-260).

\(^8\) See Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the internal market (the Directive on electronic commerce).
modernisation of Moldova’s IPR law and policy. For example, in June 2013 the EU adopted a new enforcement regulation (Regulation (EU) No 608/2013), which provides procedural rules for customs authorities to enforce IPRs with regard to goods liable to customs supervision or customs control.

On 29 November 2017 the Commission announced in the Single Market Strategy and the Digital Single Market Strategy the adoption of a comprehensive package of measures to further improve the application and enforcement of IPRs and to step up the fight against counterfeiting and piracy. Several of these new IPR rules will be relevant for Moldova, for example, a Guidance Communication clarifying the provisions of the IPR enforcement Directive.

Moreover, the EU adopted a new EU copyright directive (Directive (EU) 2019/790) that updates all existing 11 directives on EU copyright law. With regards to the information society, it sets out new rules for online content-sharing platforms. For example, it is no longer possible to make works publicly available unless permission is obtained from the rights’ holders.

The EU also acceded to the Beijing and Marrakesh Treaties. The Beijing Treaty, with 80 signatories, updates intellectual rights protection for actors in audiovisual performances in film and television, DVD and audiovisual platforms. The Marrakesh Treaty has 74 signatories and sets out rules on the use and cross-border exchange between EU and non-EU countries of accessible format copies of works for the benefit of people who are blind, visually impaired or otherwise print disabled. The EU’s legislation is compatible with these Treaties, which are, however, more limited in coverage than EU law. Moldova still needs to join both Treaties.

As enforcement of the existing IPR commitments remains problematic (see more on this in the next section), adoption of the new copyright directive could be costly and challenging for Moldova. The

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11 For more detailed information see https://eur-lex.europa.eu/browse/summaries.html.
country does not have large press and publishing industries that could benefit from the new set of rules, so instead of adopting the new rules Moldova could for the time being observe the enforcement implications of the new copyright directive in the EU.

Implementation perspectives

The institutional framework. After gaining independence, it was necessary to create an institution with legal competences in the IPR field. In November 1991 a presidential decree established the State Agency for Copyright (ADA) to ensure the protection and legal interests of authors of literary, scientific and artistic works.

Subsequently, in May 1992 another presidential decree established the State Agency on the Protection of Industrial Property (AGEPI) under the Ministry of Economy and Finance. In 1995, AGEPI obtained the status of a state enterprise subordinated to the government. In September 2004, a merger of ADA and AGEPI as the State Agency on Intellectual Property was approved (while the AGEPI acronym continues). A decade later, in July 2014, the Parliament adopted a law on AGEPI, changing the agency from a state enterprise into a public institution, while keeping it subordinated to the government. By regulating its legal status, principles and directions of activity in this way, its institutional capacity was strengthened.

The legislative framework. Over time a series of laws in the field of legal protection of intellectual property was approved. This process started in the mid-1990s, with laws on trademarks and appellations of origin, patents, protection of plant varieties, protection of industrial designs and copyright and related rights.\footnote{These were Law No 588-XIII of September 1995 on Trademarks and Appellations of Origin, Law No 461-XIII of May 1995 on Patents, Law No 915-XIII of July 1996 on the Protection of Plant Varieties, Law No 991-XIII of October 1996 on the Protection of Industrial Designs, and Law No 293-XIII of November 1994 on copyright and related rights.}

During 2007 and 2008, the development of the national IPR system and the tendency to bring the system closer to European standards saw a series of amended or supplementary laws in line with new trends adopted. Namely, these are the protection of plant varieties (No 39-XVI of February 2008), inventions (No 50-XVI of
March 2008), geographical indications, appellations of origin and traditional specialties (No 66-XVI of March 2008), industrial designs (No 161-XVI of July 2007), and trademarks (No 38-XVI of February 2008). The last two laws are currently being revised for amendments. Moreover, after amending the respective laws, it will be necessary to elaborate a new regulation on the procedure for filing, examination and registration of trademarks.

In July 2010, Law No. 139 on copyright and related rights was adopted, although it has to be amended in accordance with the Directive 2014/26/EU, with the inclusion of relevant provisions regarding collective management of copyright and related rights.

The National Commission on Intellectual Property is an advisory body under the government established to coordinate and ensure interaction between ministries and other central administrative authorities, as well as IPR holders. In May 2012, the National Commission adopted a new National Intellectual Property Strategy (NIPS), which the government followed up in April 2018 by approving a NIPS Action Plan for 2018–20. Given the complex and multifunctional nature of intellectual property and its involvement in all areas of the economic, scientific, cultural and social life of the country, the structure of the Plan sets out the responsible authorities and the actions necessary to achieve the objectives, deadlines and expected results of implementation, etc. These actions aim to promote and use IPRs, strengthen the institutional capacities of the empowered bodies, and ensure the continuous improvement of the regulatory framework in the field. According to the monitoring report of the NIPS Action Plan, there is a high degree of implementation for 2019, although the part related to the modification of the regulatory framework has not progressed much. This is because of the political context since 2019, and more recently because the Covid-19 pandemic has affected the functionality of institutions.

An important achievement related to the Agreement was the amendment in August 2018 of Annex XXX-D on GIs for wines, aromatised wines and spirits between the EU and Moldova. As a

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result, two other local GIs, ‘Nimoreni apricot brandy’ and ‘Călărași rose petal jam’, benefit from protection on EU territory. The procedure for granting protection for another GI, ‘Zăbriceni’, and a designation of origin for ‘Brinză de Popeasca’, was also initiated.

**Accession to international conventions and agreements.** Since 1993 Moldova has engaged in a comprehensive programme of accession to international conventions and agreements concerning IPRs, as listed in Box 11.1, thus ensuring Moldova’s integration into the international and European intellectual space. This culminated in 2014 with the signature of the DCFTA with the EU.

In July 2017 AGEPI and the EU Intellectual Property Office (EUIPO) signed an MoU with the aim of deepenening bilateral cooperation with the EU in the IPR field. The two offices collaborated by organising joint actions, exchanging experience and implementing joint data integration projects in the field of trademarks and industrial design. As a result, in October 2017 AGEPI joined the TMclass search tool provided by EUIPO. This tool includes access to databases of EU national intellectual property offices and other major intellectual property offices, including the United States Patent and Trademark Office and the Japanese Patent Office.

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**Box 11.1 Timeline of steps taken by Moldova in acceding to IPR conventions and organisations**

**1991**

**1993**
- Convention establishing WIPO
- Paris Convention for the Protection of Industrial Property
- Agreement on Measures concerning the Protection of Industrial Property
- Establishment of the Interstate Council on the Protection of Industrial Property
- Hague Agreement Concerning the International Registration of Industrial Designs
- Nairobi Treaty on the Protection of the Olympic Symbol
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure
1995
- Convention for the Protection of the Rights of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, 1961)
- Convention for the Protection of Literary and Artistic Works (Berne, 1886)
- Trademark Law Treaty (Geneva)
- Eurasian Patent Convention (Moscow)
- Cooperation Agreement with the European Patent Office (EPO)

1996
- Eurasian Patent Convention

1997
- International Convention for the Protection of New Varieties of Plants
- International Union for the Protection of New Varieties of Plants
- Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks
- Protocol relating to the Madrid Agreement concerning the International Registration of Marks

2000
- Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration

2001
- Accedes to the WTO and the Agreement on Trade-Related Aspects of Intellectual Property Rights

2005
- WIPO Patent Law Treaty

2009
- Singapore Treaty on the Law of Trademarks

2014
- Signature of the DCFTA with the EU (Title V, Chapter 9 on IPRs)

2015
- Beijing Treaty on Audiovisual Performances

2018
- Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled

* The WIPO Patent Law Treaty was signed by the Republic of Moldova in 2000 but only entered into force in 2005

**Outstanding challenges.** Despite these important national and international initiatives there is limited cooperation with international IPR holders, mainly because of the small size of
Moldova’s market, and consequently the limited risks for IPR holders.

The most critical problem is related to low enforcement of intellectual property protection, the source of which is the limited knowledge about IPR systems among judges and a lack of interest on the part of IPR holders. For this purpose, dedicated training is organised. During 2019, the National Institute of Justice carried out 13 training activities in the field of intellectual property, with 188 participants.

Other challenges for Moldova’s IPR system include insufficient intellectual, creative and innovative activity, a high level of piracy and counterfeiting, and poor involvement of the holders of IPRs in protection actions. Utilisation of IPR potential by SMEs is very low, and there is a large number of unfair competition cases and submission of ill-intended IPR registration applications. In addition, there is an insufficient level of culture in the IPR field and a lack of transparency within the organisations regarding the collective management of copyright and related rights.

Directive 2004/48/EC on the enforcement of IPRs is the key EU law for approximation on enforcement. New Moldovan laws are designed to bring current legislation into line with these provisions. In particular, emphasis is placed on creating a system of counteraction in cases of infringement of rights. Law No 115 of 23 June 2011 made amendments to the Contravention Code, the Criminal Code and the Code of Criminal Procedure, which govern the liability for infringement of IPRs and introduce the rights’ enforcement mechanism.

Although tangible results have been recorded in the field of GIs, there are still shortcomings in the implementation of the control and certification system for GI products. There is no state body assigned with the competencies of enforcing and verifying the compliance with GIs.

There are also challenges in transposing some IPR mechanisms from the Association Agreement into local practice. Specifically, since 2018, after a transition period of five years, the Republic of Moldova is obliged to implement workable measures at the customs border to stop any unlawful use of the protected GIs. One of the main challenges is to assure the tight cooperation in this field of Customs Service and of AGEPI, as well as to boost the
institutional capacity of the former. Although the border protection mechanism for IPRs, including registered GIs, was approved in July 2016, the enforcement activities are ongoing, with dedicated training organised for customs officials to learn the necessary skills.

Another challenge was specific to the transition period when Moldova switched to new mechanisms of GI protection. Some local companies interpreted this period as a chance to further produce and export some products with EU GIs (the ‘Prosecco’ case), thus contradicting the Association Agreement. The interventions from the AGEPI and Ministry of Agriculture via the courts during 2016–17 set a positive case to protect European GIs in Moldova. The EU and Moldova welcomed in the Trade Committee the court decisions concerning the misuse of the EU GI ‘Prosecco’. In December 2017 and April 2018, the Moldovan Supreme Court of Justice has issued a final and irrevocable decision, as a result of which Moldovan companies now have a ban on the production and placing on the market of sparkling wine under the name ‘Prosecco’. Consequently, this international trademark is fully protected in Moldova.

Although some progress has been made to bring the promotion and protection of IPRs closer to European practice, the authorities still need to do more, as listed below.

- The strategic and operational coordination between the various institutions responsible for the protection of IPRs needs to be improved. The overlapping areas of competence of several authorities needs rationalising, including the Customs Service, the Prosecutor’s Office, the Ministry of Internal Affairs, the Ministry of Economy and Infrastructure, the Ministry of Foreign Affairs, the Ministry of Health, Labour and Social Affairs, and the Ministry of Education, Culture and Research.

- IPR training programmes need updating and improving, and tailored to the staff of these institutions by basing them on thorough assessment of their knowledge and needs. Support should be enlisted from the EU institutions and the national agencies of member states with linguistic affinities, that is,

15 See https://www.legis.md/cautare/getResults?doc_id=94241&lang=ro.
16 This was the case for the GI ‘Prosecco’ for wines.
Romania, Lithuania, Latvia and Estonia ( Romanian and Russian languages).

- The qualification of judges in the IPR area should be enhanced by continuing training programmes for judges with the participation of international consultants and study visits to the EU to assimilate good practice. This requires boosting the training and assessing the judges on their knowledge of IPR legal provisions.

- A strategy to identify local products that could obtain intellectual property titles should be developed. This would also include training and support (technical and financial) activities for individual and associations of producers, and actions to promote those products in the EU (Romania, and the Visegrád and Baltic countries) and other markets.

### Intellectual property rights at a glance

The main IPR engagement of the Association Agreement is to ensure a level of protection similar to that found in the EU, including effective means of enforcement.

Currently, the legal framework on intellectual property is mostly consistent with both international rules and those of the EU. However, legislation must continue to be harmonised to follow changes at the international and EU levels.

The legal framework is being amended, as laid out in the National Intellectual Property Strategy (NIPS) 2012–20 and the NIPS Action Plan. Nevertheless, the updating of the legal framework has been affected by the political circumstances of the past few years, and more recently institutional functionality has been affected by the Covid-19 pandemic.

While the legal framework is fairly advanced, the primary task ahead is its implementation, as well as improvement of institutional capacities and knowledge of the law enforcement bodies in the area of IPRs.

The agenda on joining the new international treaties in the IPR field has been set, ensuring integrated mechanisms that will monitor the implementation of Moldova’s obligations.
For a modern economy to function soundly, it needs an effective competition policy. By controlling monopolistic behaviour by companies and trade-distorting subsidies by governments, a level playing field is ensured for economic operators, while the opportunities for corruption are reduced. This in turn leads to lower prices, better quality and wider choice for consumers.

**Provisions of the Agreement**

*Antitrust and mergers.* Moldova is obliged to maintain comprehensive competition laws that are effective in addressing anticompetitive cartels, mergers and the abuse of dominant position by enterprises. These competition laws should be enforced by an appropriately equipped independent authority in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and the rights of defence. Moreover, they should also apply to state monopolies, state enterprises and enterprises entrusted with exclusive rights in so far as the application of these competition rules do not obstruct the particular tasks of public interest assigned to these enterprises. The EU–Moldova DCFTA also envisages cooperation and coordination between the competition authorities of the EU (i.e. the European Commission) and Moldova (i.e. the Competition Council) to enhance effective competition law enforcement. For example, the competition authorities may cooperate in enforcement activities or exchange non-confidential information.
**State aid.** The DCFTA provisions on state aid apply to all goods and services liberalised by the Agreement, except agriculture and fisheries. Largely inspired by the EU Treaties, notably Art. 107(1) of the Treaty on the Functioning of the European Union (TFEU), the DCFTA states that:

State aid granted by the Union or the Republic of Moldova, or through the resources of one of the Parties, in any form whatsoever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods and services and which affects trade between the Parties, shall be incompatible with this Agreement.

However, the DCFTA does not provide further definitions or guidelines clarifying this principle. Nevertheless, the Agreement requires that within five years from the date of entry into force of the DCFTA, state aid should be assessed on the basis of the above-mentioned criteria. As an exception, Moldova has negotiated a transition period of up to 10 years to repeal the state aid schemes deriving from Law No 440-XV of July 2001 on free economic zones.

EU competition rules will for example be useful to determine when state aid ‘affects’ trade between Moldova and the EU and will therefore be covered by the DCFTA. In the EU, state aid granted per member state to a single undertaking that does not exceed €200,000 over a period of three fiscal years falls outside the scope of EU state aid control, because it is deemed to have no impact on competition and trade in the EU internal market.1 Moreover, EU state aid rules allow certain types of government interventions to achieve a number of policy objectives. The TFEU lists the types of state aid that “shall” or “may be considered to be” compatible with the Agreement. For example, various social aids and disaster relief “shall” be considered compatible and various regional economic development aids “may” be compatible. In the Block Exemption Regulation, the European Commission specifies the categories of aid and the conditions under which aid measures can benefit from

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1 See Regulation (EU) 1407/2013 of 18 December 2013 on the application of Arts 107 and 108 of the Treaty on the Functioning of the European Union (TFEU) to de minimis aid.
such an exemption, thus exempting them from the requirement of prior notification and Commission approval.²

To promote and strengthen transparency in the area of state aid, the EU and Moldova will report to each other every two years on their state aid activities and review the implementation of this DCFTA chapter.

**Institutional aspects.** The Agreement is largely silent on how Moldova’s competition policy should be administered. But in the area of state aid, the DCFTA explicitly obliges Moldova to establish an independent authority that will have the power to authorise state aid schemes, as well as the power to order the recovery of state aid that has been unlawfully granted.³ This raises a crucial political issue that goes beyond the question of formal institutional organisation, namely, how the system works in practice.

The EU’s own experience in this regard contains some strong messages. In many member states, the government and/or parliament make the top-level appointments for fixed medium-term periods (five or six years), but the appointees cannot be dismissed at the discretion of the government or parliament. Most importantly, individual case decisions of these bodies are sovereign, and are not subject to approval of the government. Such considerations are crucial in Moldova, given the prevalence of corruption and the political leverage of leading entrepreneurs.

The overall conclusions for Moldova are that: i) the top-level appointments to the Competition Council should be for fixed periods of several years and should be protected from politically motivated dismissals by transparent and strict procedures that guarantee the right of defence; and ii) the case decisions of the Competition Council should be made independently of the government or parliament.

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² For the most recent version of the EU Block Exemption Regulation, see Commission Regulation (EU) 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Arts 107 and 108 of the TFEU.

³ Moldova has established an independent authority responsible for state aid before the entry into force of the AA/DCFTA. For more details, see the “Implementation perspectives” section of this chapter.
Developments in EU law and policy

As noted above, Moldova is not obliged to approximate to a specific set of EU competition laws, but only the fundamental principles in EU competition policy. Moldova is therefore not required to update annexes to follow developments in EU competition law.

However, the EU and its member states have taken a number of measures to facilitate business operations during the Covid-19 crisis that are relevant for Moldova. The European Commission and the National Competition Authorities (that together form the European Competition Network (ECN)) have issued a joint statement on the application of the antitrust rules during the current Covid-19 crisis, expressing a certain leniency towards temporary adaptations of business practices, but warning against price-gouging on essential materials.\(^4\)

Moreover, on 8 April 2020, the Commission adopted a Temporary Framework Communication, setting out the main criteria that the Commission will follow when assessing cooperation projects aimed at addressing a shortage of supply of essential products and services during the Covid-19 pandemic.\(^5\) The main purpose of the Temporary Framework is to provide targeted support to otherwise viable companies that have entered into financial difficulty as a result of Covid-19. The document also foresees the possibility of providing companies with written comfort (via ad hoc ‘comfort letters’) on specific cooperation projects falling within the scope of the Temporary Framework. The Temporary Framework was first amended on 3 April 2020 to make more public support available for research, testing and production of products relevant for the fight against Covid-19, to protect jobs and to further support the economy. The Temporary Framework was further amended in May and June 2020, extending its scope to recapitalisation and subordinated debt measures and enabling


member states to provide public support to all **micro and small companies**.

Moldova can learn from these experiences and voluntarily align its competition policies with that of the ECN, making certain local adaptations if necessary. To strengthen cooperation in this area (including for non-Covid-related measures), Moldova (and the other DCFTA partners) should be invited to become an associate member of the ECN. This would help align their competition policies in real time, enabling them to participate in high-level policy discussions. In the same vein, cross-border mergers within the DCFTA countries could be subject to similar exceptions to the intra-EU ones.⁶

**Implementation perspectives**

Overall, the situation in the area of competition policy is gradually improving. However, the pace at which new commitments are being implemented remains slow.

**Competition policy during the post-Soviet period.** Moldova’s first legal framework for competition was established by Law No 906 of January 1992 on limiting the monopolistic activities and competition development, which was supplemented by a more qualitative one in 2000 (Law on Competition Protection No. 1103 of 30 June 2000). The Law focused on preventing, reducing and repressing monopolies and unfair competition, which also included uncompetitive agreements and abuse of dominant position. The responsible authority was the National Agency for Competition Protection, which had general supervision competences but was not empowered to carry out investigations on abuses or infringements of the competition legislation. However, it took until 2007 to establish this Agency, and the existing legal framework remained largely divergent from that of EU.

In 2012, to approximate to European practices, Moldova’s competition policy legislation was revised with the adoption of Competition Law No 183, and the Law on State Aid No 139, together with additional regulations (6 on competition law and 12

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⁶ On these points, see Keti Zukakishvili, ‘European Union Competition Policy during and beyond the Corona Crisis: Key Takeaways for Ukraine, Moldova and Georgia’, 3DCFTAs Op-Ed No 18/2020.
on state aid). The Competition Council was created through restructuring the National Agency for Competition Protection. The Competition Council has a wide range of powers – decision, regulation, prohibition, intervention and inspection – along with adoption of sanctions related to the areas of competition, state aid and advertising. Its main attributions refer to the prevention of anticompetitive practices, removal of competition infringements and the promotion and improvement of the competition culture.\(^7\)

Any piece of legislation that can affect the competition environment should receive prior approval by the Council. The Competition Council is run by the Administrative Council, which represents a collegial decision-making body comprising five members.

Since 2012, with the support of the EU and its member states, the efforts of the Moldovan authorities have been oriented towards strengthening the enforcement and effective implementation of the Competition Law, including capacity building in the Competition Council. Particular attention has been devoted to enhancing transparency on state aid rules through setting up the informational autonomous system State Aid Register (SIRASM), which is now fully operational.\(^8\)

The legal framework in the field of competition has been amended several times in recent years to ensure that it is in line with the EU’s key competition principles. In 2018 the Criminal Code was amended to allow the application of the leniency policy provided in the Competition Law (freeing a legal person of criminal liability in the case of leniency applies according to the Competition Law). The leniency policy could become a useful incentive for the dissolution of cartels. The EU leniency system is a useful point of reference. In the EU, the Commission has developed a detailed leniency policy,

\(^7\) For more information, see the website of Moldova’s Competition Council (www.competition.md/).

\(^8\) Regulation concerning the organisation and functioning of the Informational Autonomous System “State Aid Register” was approved by Government Decision No 1112 of October 2016.
which defines the information that a company involved in a cartel needs to provide to benefit from full or partial immunity from fines.\(^9\)

Between 2018 and 2020, the Competition Council initiated 64 investigations related to infringements of the Competition Law (34 in 2018 and 30 in 2019). Of these, 55 have been completed with the adoption of decisions and penalties. The highest number of cases were in the fields of anticompetitive behaviour of public authorities (17 cases in 2018/2019) and anticompetitive agreements (12 cases). Fewer instances were reported in cases of abuse of dominant position (10 cases), unfair competition (6 cases) and unreported mergers (5 cases).\(^{10}\) As a result of these cases, fines and penalty payments have amounted to MDL 22.9 million (around €1.2 million). Even so, the effective figure paid to the state budget amounts to only MDL 11 million (around €560,000); the remainder is to be paid at the end of the legal proceedings. At the same time, the number of cases in which the courts maintain the Competition Council’s decision is increasing. Thus, out of the 48 completed court cases for the years 2018-19, 38 were in favour of the Council, representing a rate of 79% (compared with 75% in 2016/2017).

In the case of state aid, 15 support measures totalling MDL 247 million (around €12.6 million) were authorised in 2019, with two schemes more than in 2018. This represents less than half of the total amount of reported state aid, amounting to over MDL 1 billion or 0.6% of GDP (around €51 million). At the same time, the alignment of 61 existing state aid schemes was achieved during 2018-2019 in accordance with the commitments assumed in the Moldova-EU Association Agreement. At the end of 2019 around 100 out of 173 existing schemes (60%) were aligned.

Fourteen misdemeanour lawsuits were initiated in the advertising market. The most common cases of breaches of advertising legislation have been identified in the field of employment. Another area of breaches was the non-bank credit institutions, due to the significant increase in people accessing

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\(^9\) See the Commission Notice on Immunity from fines and reduction of fines in cartel cases (2006/C 298/11). Also, the member states’ competition authorities coordinate their leniency programmes in cooperation with the European Commission (http://ec.europa.eu/competition/ecn/mlp_revised_2012_en.pdf).

consumer loans. Several cases in recent years also concerned the media advertising market. In 2018, several television companies filed a joint complaint to the Competition Council in which they accused two advertising sales houses of abusing a dominant position to create a cartel agreement that gave them control of about 80% of the market. The Council did not respond to this complaint, leading non-governmental media organisations to call for the dismissal of the Council’s leadership for the delay in examining the complaint.

Competition legislation needs further reforms and the institutional capabilities of the Council need to be strengthened. There are serious concerns with certain provisions contained in the draft Law on domestic trade, which may limit free competition on the local market. The main limitations refer to the obligation for retailers to have at least 50% of products of national origin on their shelves. This contradicts the DCFTA and WTO provisions on national treatment of goods. If implemented, these provisions may considerably affect the ability of European economic operators to do business in Moldova. Such limitations originate from the Government’s decision of March 2018. Since then, the project has been removed from the parliamentary agenda. But in the midst of the Covid-19 pandemic, new discussions about applying positive discrimination to Moldovan goods have emerged in the political debates preceding the autumn 2020 presidential elections.

A key challenge for the institutional development of the Council has been finding suitably qualified personnel. The lack of knowledge and experience in the field of competition shown by candidates makes it difficult to fill public vacancies, and salary levels are not commensurate with the complex skills required. Only around 70% of all potential Council vacancies were filled at the end of 2019, which is nevertheless an improvement on 2017 of almost 20%.

It is imperative that the Council expands its investigations into some critical sectors of the economy that are susceptible to concentration. At the end of 2019, 19 different investigations were underway in various fields (representing 90% of the national economy), including transport, processing, petroleum products, advertising, pharmaceutical markets, construction, electricity, chemicals, and other socially important products. Despite this, the outcomes of certain investigations have not been made public,
which undermines confidence in the Council. Even where there is a clear indication of unfair competition in certain sectors, for example in oil products and pharmaceutical markets, the activity of the port of Giurgiulești, and, as previously mentioned, the media market, the Council does not seem keen to initiate an effective and quick investigation.

Many of above-mentioned aspects were included as priorities in the national programme concerning competition and state aid, which has established ambitious measurable objectives to be achieved by the end of 2020. Some improvements were registered at the end of 2019: (i) completing the regulatory framework for mandatory approval by the Competition Council of draft legal acts for *de minimis* aid measures; (ii) revision of the Criminal Code in terms of leniency policy in competition cases; and (iii) implementation of the e-procurement system, making it possible to identify cases of anticompetitive agreements in public procurement.

However, the national programme concerning competition and state aid is still behind in some areas. The most important delay concerns the assessment of anticompetition barriers in different economic sectors, according to the OECD Competition Assessment Toolkit. Yet to be completed are the optimisation of preferential financing of municipal and state-owned enterprises from budgetary sources, and the identification of existing state aid schemes that do not meet the requirements of the legislation.

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11 Approved by Law No 169 of July 2017.
**Competition policy at a glance**

Moldova largely complies with the DCFTA competition requirements, but the implementation of the new competition-related legislation remains problematic.

The Competition Council is independent and has investigative and decision-making powers, but the institution needs to improve its financial and human-resources management.

The Competition Council should improve and refine its investigative and monitoring capabilities, as well as expand investigations into some critical areas of the economy, such as the oil products, pharmaceutical and media markets. Businesses should be more active in notifying anticompetition misconduct.

The legal framework should be improved to explore more efficiently the cartel agreements and other anticompetition practices, e.g. by a clear leniency policy.

The European Competition Network (ECN) should allow Moldova to become an associate member.

Moldova should align in a targeted way with the temporary EU measures to tackle the Covid-19 crisis in the area of competition policy.
A modern and internationally comparable statistics system is indispensable for informed policymaking and for supplying the business sector and civil society with tools for their work. All the post-Soviet states have had to face the same challenges of radical reform of their statistical systems. These reforms involve fundamental changes, notably the move from systems that essentially served the needs of the state to systems that serve the private sector and society as a whole, and more technically a greater use of sampling methods rather than exhaustive data collection.

**Provisions of the Agreement**

The EU has engaged all six Eastern Partnership (EaP) states and the Central Asian states in extensive cooperation programmes to assist this long and complex process. Many of the projects listed below are ‘group activities’ for the whole EaP and, in some cases, with the Central Asian states.

For Ukraine, Moldova and Georgia this is enhanced by collaboration and by the explicit commitments made in the Association Agreements to align their statistical systems with that of the EU (i.e. Eurostat, the statistical office of the European Union), which sets out a huge number of legal regulations in the Statistical Requirements Compendium. This is a highly ambitious programme. While the time horizon for compliance with EU regulations is not specified, experience from the accession of the
new member states of the EU would indicate that this is a long-term process. For a realistic perspective, it took around 15 years for other new EU members to complete the transition, with much more support from the EU than Ukraine, Moldova or Georgia will be receiving.

The cooperation between Eurostat and the partner states is structured in the following way:

- seminars on statistical strategies, once a year for three days
- five or six training courses over a two-year cycle on current issues and recent developments in statistical systems
- collection of selected data series, about 300 in number (i.e. a selection of key series, though fewer than those the EU member states comply with), in which the partner states submit data in accordance with Eurostat questionnaires, allowing Eurostat to publish comparable data series
- in-depth assessment of the statistical system of Moldova.¹

**Developments in EU law and policy**

As noted above, Moldova is required to approximate to the EU’s statistical system. An important element of the EU’s statistical system is the Statistical Requirements Compendium, which summarises the key reference information for European statistical production. Eurostat regularly updates the Compendium to take into account new legislation and other developments. Before the 2017 edition, the Compendium generally followed the structure of the European Statistical Programme 2013-2017 and the corresponding annual work programmes of Eurostat. An adapted version of the Classification of Statistical Activities (CSA) was then introduced in the 2017 edition, following Eurostat's decision to abolish the modules in the statistical work programme. The main purpose of introducing the CSA was to provide a stable classification of statistical areas and their data requirements, which could easily be transferred to similar processes and purposes and be used for compliance monitoring.

Implementation perspectives

The national legislation on statistics is currently based on Law No 93 of May 2017 on official statistics. This replaced the previous Law No 412 of December 2004, and partially transposed into national legislation the provisions of Regulation (EC) No 223/2009 on European Statistics, as well as the European Statistics Code of Practice. Moldova was the first country from the EaP to adopt a law on statistics in accordance with the European Statistics Code of Practice. According to the Law, the central statistical authority of the country is the National Bureau of Statistics (NBS), which produces economic, social and demographic statistics, with dissemination on its official website in both Romanian and Russian, and in English for almost all indicators.

In recent years, the NBS has undergone significant internal organisational changes to increase the efficiency of data collection, processing, analysis and dissemination. Current efforts to amend the Law aim to increase the professional independence of the general director of the NBS, in line with the European Statistics Code of Good Practice.\(^2\)

Since September 2014, when the provisional implementation of the Agreement started, the authorities have undertaken a range of measures targeting compliance with EU best practices on statistics, concerning work accidents, the energy and environment sectors, and Millennium Development Goals in particular. Work has started on a methodology for collecting innovation statistics. With EU support a project on improved regional statistics was implemented.

Among the most important achievements are the compilation of the gross regional product and adoption of a uniform territorial breakdown for statistics in line with the EU nomenclature of territorial units of statistics (NUTS) Regulation.\(^3\) Moreover, the recently adopted national classification of statistical territorial units in line with EU standards has been adjusted to the existing territorial breakdown of regions of economic development,

\(^2\) See https://bit.ly/3wizHbS.

\(^3\) Nomenclature of territorial units of statistics (NUTS) of the Republic of Moldova was adopted by Government Decision No. 570 of July 2017.
established in accordance with Law No 438 of December 2008 on regional development. This eliminated the differences between territorial breakdowns used for statistical and regional development purposes that existed before 2017.

Starting in 2018, the NBS has begun to implement the 2008 System of National Accounts to replace the previous version of 1993, the former being fully compatible with the 2010 European System of Accounts. In 2019, after significant delay, the process of embedding the results of the 2014 population census in national statistics began.\footnote{The revised population figures according to results of the 2014 census was published by the NBS only in 2018. The delay with processing the census results might have been caused by such factors as understaffing of the NBS and low political engagement to have the final data in reasonable time. Even this delayed result was only possible thanks to the support of UNFPA and the Swiss Agency for Development and Cooperation.} A part of this process was retroactive recalculation of demographic indicators from 2014 in accordance with the definition of usual resident population.\footnote{Definition in accordance with the provisions of Regulation (EU) No 1260/2013 of the European Parliament and of the Council of November 2013 on European demographic statistics.} Also, starting in 2019, there is a new definition of employment, as adopted by the 19\textsuperscript{th} International Conference of Labour Statisticians in 2013.\footnote{See https://ilostat.ilo.org/about/standards/icls/icls-documents/#icls19.}

The NBS enjoys significant donor support from the EU, the Swedish International Development Agency (Sida), the UN system and other development partners. In July 2015, the Sector Aid Coordination Council was established to improve the coordination of donor support. Listed below are the major remaining challenges, however.

- The adoption of new methodologies for the national accounts and demographic statistics has given rise to time-series breaks. The NBS has only recalculated the main statistical indicators in accordance with new methodologies for a short period of time. The problem is more acute for labour statistics, because a recalculation prior to 2019 in accordance with the new definition of employment is not envisaged. Thus, many indicators are not comparable across time, which hinders the evaluation and evidence-based policy elaboration.
The data lack estimates for the Transnistrian region.

Several institutional problems, including poor coordination of the statistical system between the NBS and other institutions need to be overcome. The problem of understaffing and high personnel turnover remains a significant challenge for NBS.

The issue of high rates of non-response by the respondents to key statistical research tools needs tackling, as well as the limited access of the NBS to administrative data.

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**Statistics at a glance**

The legislation on statistics broadly reflects international and European standards, and its implementation in practice has accelerated in recent years.

Moldova needs to take into account the recent changes to the EU’s Statistical Requirements Compendium.

The National Bureau of Statistics faces challenges related to financial constraints, dependence on external assistance, and weak institutional and IT capacities.
PART III.
ECONOMIC COOPERATION

After the collapse of the Soviet Union and independence, Moldova suffered one of the deepest and longest economic declines among the transition countries. Its economy began to recover only in 2000 after the huge initial losses at the beginning of the post-Soviet transition. Despite this growth, Moldova’s GDP per capita is still one of the lowest among the Eastern European countries and those of the CIS.

Moldova was then hit hard by the global economic crisis of 2008–09. The economy began to recover in subsequent years, but it was again hit hard in early 2014 by a major bank fraud, with losses of 16% of GDP, such that in 2015 the economy went back into recession. Even if 2016-19 has seen a useful macroeconomic recovery, with growth of some 4%, the general state of the economy suffers from serious systemic weaknesses and governance. These vulnerabilities emerged in early 2020 when the Covid-19 pandemic caught the national economy unprepared, exacerbating the grave difficulties in the agriculture and food industries caused by drought.

In general terms, over the past ten years, the economic development of Moldova has been characterised by high volatility. During this period the highest growth was recorded, with 9% in 2013, but there were two years in which the economy experienced a mild decrease: -0.6% in 2012 and -0.5% in 2015. The recorded
oscillations show that the economy continues to be vulnerable. Agriculture continues to have a substantial weight in GDP, although in 2019 unfavourable climate conditions meant it registered a share of less than 10% for the first time. It is already a normal fact that, in dry years, agriculture contributes negatively to GDP growth, and vice versa in good ones. Also, it should be noted that the remarkable growth of GDP of over 9% in 2013 was substantially due to growth recovery in agriculture, which occurred after a big decline in 2012.

Another factor that affects economic growth is the dynamic of remittances. This source of income contributes significantly to households’ consumption. From 2010 to 2013, the volume of remittances’ inflow strongly increased; however, during 2014-16, negative economic developments in Russia severely affected the remittances. It was only in 2017 that the situation recovered, with about €1.2 billion of remittances, but this was still smaller than the maximum registered in 2013 (€1.5 billion). Moldova ranks in the top 10 countries in the world on the share of remittances in GDP. In 2019, it represented 15.2% of GDP with a stable share in recent years. However, the flow of remittances in 2020 is also affected by the pandemic, with a decreasing trend of over 4% compared with 2019 and with an immediate impact on consumption.

The industrial sector is contributing to economic growth, with its share in GDP increasing from 12.8% to 14.2% between 2010 and 2019. Low wage costs have meant the advancement of labour-intensive industries, such as the manufacture of footwear, clothing or wiring. But most industry still has a rudimentary character, and the economy largely lacks the technological and human potential needed for more advanced industries. There are also risks because of the unpredictability of external orders, particular in the midst of the emerging protectionism in the global economy.

The share of exports of goods in GDP rose to 24% by the end of 2019. Since 2006, however, the CIS region ceased to be the most important destination for Moldovan exports, with exports to the EU rising to a higher share. This contributed to the efforts of the authorities to diversify trade partners to overcome the losses from the bans still applied by Russia on Moldova’s imports. At the same time, the exports of services have registered an accelerated positive dynamic starting with 2016, mainly due to the IT sector. The
simplified tax regime granted for IT services served as a significant boost for the sector’s development; as a result, in the past three years (2017-2020), exports of IT services have tripled, reaching €170 million in 2019, with a double-digit increase expected for 2020 as well.

**Development perspectives**

As it overcame the economic crisis with renewed growth and the setting up of a new ‘pro-European’ government, 2010 could have been a turning point for the Moldovan economy. But what followed was not encouraging. Corruption has been a dominant theme in public perceptions and debate over the past decade. This theme was powered by the major bank fraud in late 2014 and the difficult and highly politicised investigation process that followed. Even now, the guilty persons have not been held accountable and the funds have not been returned. More than that, the perception of high-level corruption has also been fuelled by problematic privatisations in recent years, including the airport, the Air Moldova company, the network of bus stations and other strategic assets of the state. These facts continue to erode public trust both in the investigation bodies and the justice system, as well as in the top institutions of the country.

Despite the limited recovery that followed the banking fraud, in the medium and long run, the prospects for development are undermined by a range of economic, social and demographic challenges. Moldova’s external competitiveness continues to weaken, and the country fails to converge with its neighbours and other countries from Central and Eastern Europe. Moreover, compared with this region, the development gap tends to widen, and this is imposing considerable medium- and long-term risks (e.g. low attractiveness for foreign direct investments, the emigration of the working-age population, poor and unsustainable integration into international value chains and globalisation/ regionalisation processes etc.).

The 2020 year is marked by the Covid-19 pandemic, which caught the country unprepared. At the beginning of 2020, before the outbreak of the pandemic, the economy had already started to reveal the first signs of a slowdown. The budget deficit was increasing, and several key macroeconomic indicators (e.g. exports) were in decline. Also, most companies were unprepared for such a crisis, entering the pandemic with insufficient or even without cash
buffers, poor internal governance and crisis-management capacities, a low level of technological endowment, limited capacities to integrate and manage digital tools, and weak diversification of suppliers and distribution channels. In addition to the pandemic, the 2020 economic downturn was amplified by the drought, which highlighted another significant vulnerability of the country – high exposure to climate shocks. Taking together the impact of these two overlapping circumstances of the Covid-19 pandemic and the drought, the economy is forecast to contract by 7.5% in 2020 (Table 14.1), turning into a worse crisis even than the recession of 2009.¹

Table 14.1 Main economic indicators of Moldova

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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP growth (%)</td>
<td>5.8</td>
<td>-0.6</td>
<td>9.0</td>
<td>5.0</td>
<td>-0.3</td>
<td>4.4</td>
<td>4.7</td>
<td>4.3</td>
<td>3.6</td>
<td>-7.5</td>
</tr>
<tr>
<td>Inflation, annual average (%)</td>
<td>7.7</td>
<td>4.6</td>
<td>4.6</td>
<td>5.1</td>
<td>13.6</td>
<td>2.4</td>
<td>7.3</td>
<td>0.9</td>
<td>7.5</td>
<td>1.7</td>
</tr>
<tr>
<td>Budget deficit (% GDP)</td>
<td>-2.4</td>
<td>-2.2</td>
<td>-1.8</td>
<td>-1.7</td>
<td>-2.2</td>
<td>-1.7</td>
<td>-2.7</td>
<td>-1.2</td>
<td>-1.5</td>
<td>-5.7</td>
</tr>
<tr>
<td>External debt (% GDP)</td>
<td>61.7</td>
<td>67.3</td>
<td>70.9</td>
<td>66.5</td>
<td>76.6</td>
<td>75.0</td>
<td>70.6</td>
<td>63.9</td>
<td>62.0</td>
<td>67.0</td>
</tr>
<tr>
<td>Current account (% GDP)</td>
<td>-10.1</td>
<td>-7.4</td>
<td>-5.2</td>
<td>-6.0</td>
<td>-6.0</td>
<td>-3.5</td>
<td>-5.7</td>
<td>-10.4</td>
<td>-9.3</td>
<td>-4.4</td>
</tr>
</tbody>
</table>

Sources: National Bureau of Statistics (NBS) and National Bank of Moldova (BNM).

*For 2020 estimated values.

Provisions of the Agreement and financial assistance from the EU

The text of the Association Agreement on macroeconomic cooperation is short and simple. It foresees regular dialogue on macroeconomic policy. Moldova will aim to gradually approximate its economic and financial regulations to those of the EU while ensuring sound macroeconomic policies (Art. 24), but there are no timetables or precise references to EU legislation.

Surprisingly, the text of the Agreement is silent on the significant financial cooperation between Moldova and the EU and

the European financial institutions, notably macro-financial loan and grant funding from the European Commission, further grant funding from the EU budget and investment funding from the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD). From a strictly legal standpoint, these activities do not derive their basis from the Agreement, but they are important in complementing and helping fund the implementation of the Agreement.

Regular grants from the EU budget are programmed to support Moldova’s reform agenda through financial and technical cooperation. The indicative allocation for the 2014–20 period is €610–746 million, with supplementary allocations dependent on progress towards a “deep and sustainable democracy” and implementation of agreed reform objectives. The targeted allocations for this funding are shown in Table 14.2.

Table 14.2 EU budgetary assistance to Moldova, by sector, 2014–20

<table>
<thead>
<tr>
<th>Sector of intervention</th>
<th>Indicative amount (% of total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public administration reform</td>
<td>30</td>
</tr>
<tr>
<td>Agriculture and rural development</td>
<td>30</td>
</tr>
<tr>
<td>Police reform and border management</td>
<td>20</td>
</tr>
<tr>
<td>Capacity development and institution-building</td>
<td>15</td>
</tr>
<tr>
<td>Civil society</td>
<td>5</td>
</tr>
</tbody>
</table>

In the last period (2018-2020), the EU has diversified its assistance to Moldova by directing more funds to support various actors of change - particularly, independent media, local authorities (EU for Cahul, and the EU for Ungheni project), civil society, local communities, SMEs, including in rural areas (EU for Rural Moldova). Additionally, a special online platform was launched that aims to provide a better understanding of the EU support and present different sectors of European assistance. The Government has focused its efforts to increase the efficiency of the coordination and management mechanism of external assistance at the national

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level, by creating the Office for the Management of External Assistance Programmes, including an online platform for the public. During 2019–2020, the EU has resumed financial assistance, providing €53 million for direct budget support. Also, another €60 million out of the €100 million planned has been provided in the framework of macro-financial assistance (MFA), support that has been contingent on strict conditionalities. However, Moldova missed the last tranche of €40 million in MFA, due to the failure to fulfil all 10 conditions in the Credit and Grant Agreements with the EU.

To address the Covid-19 crisis, under the “Team Europe” framework, the EU institutions mobilised additional funds to assist associated countries, including Moldova. The European Commission identified and shifted the destination of more than €87 million to support measures aiming to mitigate the socioeconomic consequences of the pandemic. Additionally, Moldova might receive another €100 million as EU anti-crisis MFA by summer 2021. The first €50 million arrived in November 2020, while the second tranche will be disbursed once all technical conditions set out in the MoU are met. Besides this, a new EU Macro-Financial Assistance Programme of at least €100 million could be negotiated with the EU, in addition to the $558 million under the Economic Programme with the IMF, which was initially set to be concluded by the end of 2020. However, the political uncertainties after the presidential election and the instability in which the government operates means that the IMF decision related to a new MoU with Moldova has been postponed for the beginning of 2021.

In addition, the EU budget funds the Neighbourhood Investment Facility (NIF), which usually co-funds investment projects with the EIB, EBRD and selected financial institutions of the EU member states. The NIF grants funding to ease the financial conditions for the investment necessary to support the DCFTA, and to exploit new trade opportunities. For example, in 2015, the NIF granted €2 million to leverage a €75 million loan from the EIB to upgrade Moldova’s winemaking sector. Another €4.5 million grant was to leverage €22 million of loans from the EBRD for sustainable energy-efficiency projects, including a biogas plant.

The EIB is a major investor in Moldova, having extended a total of €282 million in loans and investment so far. A major project initiated in 2014 comprises a €120 million loan for the Fruit Garden
of Moldova, which will finance projects of a large number of microbusinesses and SMEs in the horticultural sector.

The EBRD has become an even bigger investor in Moldova, having made financial contributions so far amounting to €1.25 billion to 122 projects. The largest shares of this investment have been in infrastructure and the energy sector. The EBRD is also focusing on projects to help Moldova develop value-added exports, especially in the manufacturing and agri-business sectors, given not only the new opportunities but also the need for enhanced competitiveness in the DCFTA context.

At the end of 2017, the EBRD approved a new strategy for Moldova for 2017-22. Some of the most important priorities of the EBRD for the next five years refer to restoring the transparency of the banking system, financing the infrastructure developments in the renewable energy sector and restructuring the banking sector. The EBRD decided in October 2017 to take over controlling participation in one of the largest national banks (CB Victoriabank).

As noted earlier, the Moldova’s banking sector faced a major fraud in 2014-15, endangering the economy’s financial stability. Three major banks – Banca de Economii, Banca Sociala and Unibank – engaged in opaque transfers of up to $1 billion, which forced the central bank to provide emergency loans amounting to as much as 12% of GDP. With a new financing agreement with the IMF signed in 2016, linked to various legislative amendments and institutional reform measures, the banking sector appears to be slowly recovering from the effects of the crisis. However, progress in investigating the banking fraud and recovery of the money stolen from the three banks is slow.
### Macroeconomic context and financial assistance at a glance

Moldova’s economy began to recover only in 2000 after the huge initial losses at the beginning of the post-Soviet transition.

But it was then hit hard by the global economic crisis of 2008–09. While the economy started to recover in the following years, the major bank fraud of 2014 again hit the economy, causing losses of 16% of GDP, such that in 2015 the economy went back into recession.

Even if 2016-19 witnessed a useful macroeconomic recovery, the general state of the economy suffers from serious systemic weaknesses in governance.

2020 was marked by the Covid-19 pandemic, which amplified the underlying vulnerabilities related to the state of the country.

The economy is forecast to shrink by 7.5% in 2020, as a result of two overlapping crises: the Covid-19 pandemic and drought, making the crisis even worse than the recession of 2009.

In response to the Covid-19 crisis, in 2020 the EU mobilised funds for Moldova under the “Team Europe” approach. More than €87 million of programmed assistance was reoriented to this end.

The EU is also supplying significant financial assistance to Moldova, including budget grants, and also major investments from the EIB and the EBRD. Another €100 million macro-financial assistance (MFA) is scheduled following an MoU concluded in July 2020.
The Agreement envisages a comprehensive adoption by Moldova of the European system for regulating banks, insurance and securities markets and, at least in the long run, of the entire EU legislative complex of laws. The objective is for the financial markets to be safe and efficient for consumers and systemically sound for the economy, and for the industry to have open access to European markets to secure its competitiveness and modernisation.

Provisions of the Agreement

General provisions. The Agreement commits Moldova to gradually making its financial market regulations compatible with those of the EU for banking, insurance, securities and asset management. A large number of EU laws – 39 directives and regulations plus a recommendation (listed in Annex XXVIII-A) – will be approximated with implementation of mostly three-year delays. Yet there is a much more limited number of core regulations of systemic importance, and many of the others are technical implementation provisions for the core regulations.

National treatment. In general, the Agreement provides for national treatment for establishment and cross-border supply of services, meaning that each party will grant treatment to the other party’s operators no less favourable than for its own. This is in line with standard WTO/GATS principles, under which, however, national treatment only applies once a service provider has legally
entered the market. In addition, there are detailed provisions facilitating the “temporary presence” of key personnel and suppliers of services. There are, however, still numerous specific reservations by individual EU member states (listed in Annex XXVII-B), many of which may be of small significance, but nonetheless complicate and limit the openness of the market (See Chapter 9 on services).

**Market access.** In relation to establishment, the Agreement does not contain specific provisions on market access. In relation to the cross-border supply of services, under Art. 210, the parties’ market access commitments are inscribed in Annexes XXVII-B and XXVII-F to the Agreement. Market access commitments follow a positive list approach, as under the GATS.

**International standards.** At the same time, Art. 243 of the Agreement calls for Moldova to “make its best endeavours” to apply, inter alia, the following internationally agreed standards:

- Core Principles for Banking Supervision under Basel rules
- International Association of Insurance Supervisors’ Insurance Core Principles
- International Organisation of Securities Commissions’ Objectives and Principles of Securities Regulation
- OECD Agreement on exchange of information on tax matters
- G20 Statement on transparency and exchange of information for tax purposes

**Developments in EU law and policy**

As noted above, Annex XXVII covers numerous EU acts in the area of banking, insurance, securities, undertakings for collective investment in transferable securities (UCITS), market infrastructure, payments, anti-money laundering (AML), and free movement of capital. However, most of this legislation predates the 2008 financial and banking crisis and the new package of EU legislation that resulted from this. The EU and Moldova have therefore agreed to update the financial services annex. The agreed
draft annex,\textsuperscript{1} which still requires formal adoption by the Trade Committee, includes, however, only a limited number of new EU acts on, for example, the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and information accompanying transfers of funds.\textsuperscript{2} Other important legislative developments which still need to be considered for updating are discussed below.

**Banks – capital requirements.** The global financial crisis, with the collapse or near-collapse of major banks of systemic importance, has led to radical strengthening of the capital reserve requirements of banking systems. The EU has recently moved on to the latest international standard, i.e. the Basel III rules, and repealed older legal instruments.\textsuperscript{3} Basel III basically aims to strengthen the regulation, supervision and risk management of the banking sector by improving the banking sector’s ability to absorb shocks, improving risk management and governance and strengthening banks’ transparency and disclosures. Accordingly, among the key EU laws adopted to implement Basel III are the following:

- the 2006 Directive on capital adequacy of investment firms and credit institutions (2006/49/EC), replaced in 2013 by a Regulation on prudential requirements for credit institutions and investment firms (575/2013/EU – CRR)

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\textsuperscript{1} European Commission, Proposal for a Council Decision on the update of Annex XXVIII-A (Rules applicable to financial services), Annex XXVIII-B (Rules applicable to telecommunication services) and Annex XXVIII-D (Rules applicable to international maritime transport) to the Agreement (COM/2017/0754 final).


\textsuperscript{3} Basel I was the first internationally agreed set of banking regulations negotiated and produced the Bank for International Settlements (located in Basel), while Basel III is the most recent version, and takes into account the need for changes in the light of the 2008 financial crisis. While these norms are international, the EU legislates to make them strictly operational and binding.
another related Directive of 2006 on the business of credit institutions (2006/48/EC), replaced by a Directive of 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (2013/36/EU - CRD IV).

These texts transpose into EU law the latest global standards on bank capital adequacy, commonly known as the Basel regulatory norms. The new texts are a combination of directives, which give some leeway to member states on how to implement the provisions, and regulations, which in EU law are directly applicable, and in this case specify precisely the various harmonisation requirements.4 While the basic minimum capital requirement of 8% of equity capital is unchanged (as in Basel I and the 2006 directives), the definition of capital has been tightened and further categories of reserve requirements have been introduced, giving essentially the following regime (under Basel III and the new 2013 laws):

- a minimum capital reserve requirement of 8%
- a capital conservation buffer of 2.5%
- a countercyclical capital buffer of 0 to 2.5%
- a capital buffer in systemically important institutions of 0 to 3.5%
- a systemic risk buffer of 0 to 3 - 5%.

As a result, depending on the specifics of individual banks, the requirements could effectively be doubled, although small- to medium-sized banks can be largely exempt from the additional requirements. These capital reserve requirements are subject to extremely complex methodologies of definition and calculation, which take up the bulk of the texts in question. There are also new requirements with respect to liquidity to cover stress conditions.

**Accounting rules.** Four accounting directives are cited (in Annex XXVIII-2), which provide very detailed technicalities. Important new EU legislation in this area is Directive 2013/34/EU of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings. This directive aims to ensure the clarity and comparability of financial statements and limits administrative

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burdens and provides for simple and robust accounting rules, especially for SMEs.

**Insurance.** The key law for regulating the insurance industry is Directive 2009/138/EC on the taking up and pursuit of the business of insurance and reinsurance, also known as ‘Solvency II’, which is a fundamental text detailing rules for the conduct of the industry, its supervision and solvency. Moldova should comply with this directive within seven years. Implementation of Solvency II is understood to be a big challenge for Moldova that will take a considerable time to be realised. Some more specific laws are cited, for example for motor vehicle liability.

**Securities – markets in financial instruments (MiFID).** The EU has established a comprehensive regulatory regime for investor transactions by stock markets, other trading systems and investment firms, with a single authorisation for investment firms to do business anywhere in the EU. The key law is Directive 2004/39/EC for markets in financial instruments (MiFID), supplemented by implementing Directive 2006/73/EC, with which Moldova should comply within seven years.

On 1 January 2018, a revised and highly complex second version of MiFID (MiFID II) entered into force in the EU (Directive 2014/65/EU). MiFID II creates a new legal framework that better regulates trading activities on financial markets and enhances investor protection. For example, it established a new trading platform (organised trading facility (OTF)), strengthened transparency requirements that apply before and after financial instruments are traded and limited speculation on commodities. It may well be premature to approximate this directive in the case of Moldova.

**Investment funds (UCITS).** The basic law of the EU for investment funds was revised in 2009 in the wake of the 2008 Madoff scandal, and this text on the regulation of UCITS is cited in Annex XXVIII-A. The market in question has grown to a substantial size in the EU. But this text has undergone a further important revision (2014/91/EU), and therefore raises the question of updating the provisions of the Agreement.

**Financial derivatives.** The EU has introduced complex rules to regulate financial derivatives in a regulation on over-the-counter (OTC) derivatives, central counterparties and trade repositories,
also called the European market infrastructure regulation (EMIR) (Regulation (EU) 648/2012). This was a major development, enabling the EU to deliver the G20 commitments on OTC derivatives agreed at the Pittsburgh summit in September 2009. This Regulation increases transparency in the OTC market by providing that all information on all European derivative contracts must be reported to trade repositories and made accessible to supervisory authorities, including the European Securities and Markets Authority (ESMA).

Implementation perspectives

Moldova’s National Commission for Financial Markets (NCFM) has reported recent evolutions in its regulatory regime to the EU in the Trade Committee, particularly regarding the non-banking sector. This sector remains underdeveloped because low liquidity levels and lack of trust in the market pushes entrepreneurs into traditional banking. The EU has recalled the need to address vulnerabilities in the non-bank financial sector, in line with recent IMF recommendations. The National Bank of Moldova (BNM) has, however, made a presentation about the recent reforms that have been undertaken, particularly as regards the approximation to the Capital Requirements Directive (CRD) IV and Basel III rules, and the transfer of Moldova’s three largest banks to ‘fit and proper’ shareholders. As regards AML, Moldova informed the EU of the effective implementation, since February 2018, of the Law No. 308 on prevention and combating money laundering and terrorism financing, as well as three additional regulations on AML covering specific sectors (such as non-bank payment service providers).

Present structure and state of the Moldovan financial market. Moldova’s financial market is still underdeveloped. Its non-bank segment is shallow, but consolidating. Banks continue to dominate the financial system, both in terms of assets, clients and financial intermediation. By the end of 2019 total financial sector assets represented 50.2% of GDP, with banks accounting for almost 86% of the total. Other assets in the financial sector constitute the non-bank credit organisations (10%), the insurance sector (about 3%) and savings and credit associations (1%). Banking intermediation, as reflected in the ratio of the bank-dominated overall loans portfolio to GDP, was 19.2% in 2019, which is
significantly lower compared with 2014 when it recorded 30.6%. This big decrease was caused by major bank fraud and the resulting financial crisis that started in 2014 (reported in more detail below). The tighter credit assessment requirements and the additional formation of provisions have dampened the risk appetite of most banks. This also led to the migration of financing demand to the non-banking financial sector, especially to non-bank credit organisations, whose loan portfolios have increased by about 2.7 times as compared with 2014. However, the credit activity of banks started to recover in 2018, especially on consumer lending and mortgage segments. The stable macro-economic conditions, the ‘Prima Casa’ programme and the increase in household incomes are the main factors which have seen the intermediation process revitalised to a certain extent.

**Banking.** The BNM was established in 1991, and is an autonomous legal entity, responsible only to the country’s parliament. It regulates and supervises banking practices throughout the country and defines national monetary management and exchange policies. It issues licences to commercial banks, payment services providers, the foreign exchange bureau, foreign exchange offices and the foreign exchange bureaux of hotels. At the moment, the licensing requirements for banks include a minimum threshold for own capital of MDL 200 million, of which MDL 100 million is the statutory capital. Additionally, banks shall meet at any time a rate of total own-funds instruments of 10%. Moreover, according to the 2018 Regulation on the capital buffers of banks, banks should meet the combined buffer requirement. That represents the total capital ratio (common equity Tier 1), i.e. the highest quality of regulatory capital, as it absorbs losses as soon as they occur. In addition, it necessitates the capital conservation buffer, bank-specific countercyclical capital buffer, Other Systemically Important Institutions (O-SII) buffer (if applicable), and systemic risk buffer.

After Moldova’s 2014-15 banking crisis (see Box 15.1), the main focus was on fortifying the BNM’s independence, as well as its ability to ensure supervisory actions. However, in recent years (2018-20), various political actors have tried to undermine the BNM’s independence through populist initiatives, such as the use of reserve assets for infrastructure development purposes. Another
remarkable initiative included cancelling the payment of interest on the government securities issued by the Ministry of Finance in the context of state guarantees granted to the BNM for the emergency loans in 2014 and 2015.

At the end of 2019 the banking system in Moldova could be evaluated as stable, banks being well capitalised and maintaining high liquidity. The banking infrastructure comprises 11 banks, out of which five are subsidiaries of the EU financial groups (OTP Bank Nyrt, ProCredit Holding, Erste Group, Intesa Sanpaolo and Banca Transilvania). The remaining six banks also had some foreign participation (e.g. Moldova Agroindbank through HEIM Partners Limited, and Moldindconbank through Bulgarian investment fund Doverie-Invest JSC). At the same time, the banking sector remains relatively concentrated, the four largest banks (Moldova Agroindbank, Moldindconbank, Victoriabank and Mobiasbanca-OTP Group) holding over 79% of the total bank assets and total loan portfolio.

The prudential framework for banks has been upgraded from the Basel I regime to Basel III. On January 1, 2018 the new Law on banking activity entered into force (No. 202 as of October 6, 2017), which has aligned the Moldovan supervisory framework on the principles of Basel III and provisions of the EU capital requirements directives. In this regard, during 2018 and 2019 a series of normative acts related to own funds requirements and capital buffers requirements, internal governance and risk management were approved.

With the aim of ensuring a stable national financial system, the Law on National Committee for Financial Stability was adopted in 2018. This designates the national macro-prudential body responsible for the coordination of the macro-prudential policy and measures oriented towards the prevention and remediation of systemic crisis. Additionally, the stability of the banking sector was improved with new deposit-guarantee thresholds (Directive 2014/49/EU). Thus, since 2020, the deposit-guarantee ceiling has

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5 The consortium consists of the European Bank for Reconstruction and Development (EBRD), Horizon Capital – manager of an investment fund created by international financial institutions, and Invalda INVL – a listed investment company in Lithuania.
been increased from MDL 20,000 up to MDL 50,000, with extended categories of guaranteed deposits to include legal entities. Also in 2020 the banking resolution fund became functional, which will further contribute to strengthening the banking sector and its credibility by supporting the interests of depositors (Directive 2014/59/EU). The resources of the banking resolution fund are administered by the Deposit Guarantee Fund in the banking system and will be used for the application of resolution tools.

Box 15.1 The 2014 bank fraud

The Moldavian banking system proved to be quite stable in the first two decades after the country’s independence in 1991, facing up to regional and global financial crises adequately. In 2014, however, it was badly hit by a series of dubious ‘mega-transactions’. By the end of the year, three systemically important banks, that accounted for 35% of the assets of the entire banking system, were becoming insolvent as a result of the dramatic degradation of their financial situation. The banks were placed under special administration. In November and December 2014, the BNM opened emergency credit lines for these three banks, amounting to MDL 9,4 billion (approx. €500 million), to maintain the stability of the financial system, followed by another loan of over MDL 5 billion (approx. €250 million) in March 2015. These credits were granted at preferential interest rates and guaranteed by the state with maturities extended for an undetermined period.

When these loans were not repaid, it was decided to liquidate all three banks. As the Ministry of Finance had guaranteed the loans granted by the BNM, the debt was converted into government debt with a repayment schedule of up to 25 years. At the same time, investigations were begun but failed to reveal who was responsible for the fraud. EU political conditionality, in return for financial assistance, has been used since 2017 to speed up the process of bank fraud investigation, but the results have been discouraging. The interinstitutional platform to monitor and control the status of bank fraud investigations and to recover fraudulent assets, and the strategy for recovering stolen financial means presented by the General Prosecutor’s Office in 2018 had not, therefore, progressed.

With the political changes of 2019, the outlook on investigations changed. The newly appointed general prosecutor announced a completely different investigation. The fugitive oligarch Vladimir
Plahotniuc was accused of masterminding the fraud, but the extradition warrant on his name sent to the US has not yet materialised, given the American procedures and the lack of a bilateral agreement on judicial cooperation. The investigation even led to concerns from the European Bank for Reconstruction and Development (EBRD), namely the indictment issued by Moldova’s authorities against Victoriabank and the recent court warrant authorising the seizures of assets of Victoriabank in connection with the investigation of fraudulent activities in the Moldovan banking sector in 2014.

Finally, it has become clear that both the fraud and the investigation process had and continue to have a strong political character, which are too difficult for the justice system to handle alone. Moreover, as time goes by the chances of recovering the money recede. This increases the burden on the Ministry of Finance, which is also forced to use taxpayers’ money to reimburse the debt to the BNM, or even unconventional sources (e.g. profit generated by the BNM and transferred to the state budget).

Non-bank savings and credit institutions. The NCFM regulates and supervises the non-bank financial services segments, the securities market, the insurance market, non-state pension funds and credit history bureaux. The NCFM was established in August 2007 as a successor to several agencies.

As of the end of 2019, the non-banking institutions under NCFM supervision comprised 173 savings and credit associations, and 166 non-bank credit organisations. The latter organisations accounted for about 90% of non-bank-lending assets. An important achievement related to non-banking credit organisations refers to the adoption of a specific law\(^6\) delegating powers to NCFM to regulate and supervise micro-financial institutions and leasing companies. The law establishes a common regulatory and supervisory framework for non-banking financial activities (as authorisation procedure for non-bank lending activity and prudential requirements). It aims to ensure the sustainable development of this sector via protecting consumers’ rights and reducing systemic risks. In 2020, several amendments to this law

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came into operation. One of these refers to capping of interest and other payments (commissions/penalties) on loans with maturity up to two years and/or up to MDL 50,000, so that their total does not exceed 100% in relation to the principal amount. Another important amendment, in force from 1 January 2021, refers to the increase of the minimum social capital of non-bank credit organisation up to MDL 1 million (up from MDL 300,000, as was initially established).

**Securities market.** Moldova’s capital market remains at an embryonic stage, with trading taking place only in shares and bonds. Trading mechanisms for derivatives and government securities (secondary market) are yet to be developed. The trading mechanism for government securities is in the process of implementation. Deals related to the privatisation process have accounted for the bulk of transactions. In 2019, there was a decrease in the volume of transactions on the primary market, while the volume of transaction on the secondary markets recorded a growth. Thus, the volume of shares issued amounted to MDL 210.6 million (€20 million) in 2019, or by 64% lower than in 2018. The secondary market saw an increase of 12% in the volume of transactions with securities in 2019.

In principle, foreign companies and individuals receive national treatment in securities markets. There are no restrictions on foreign portfolio investment in Moldova. Investment firms from the EU can operate as ‘accepted persons’ on the Moldovan market without the licence issued by the NCFM.

In terms of the regulatory framework, in recent years Moldova has taken steps to align its legislation governing primary and secondary capital market activities with that of the EU. A new Capital Market Law, in force since September 2013, transposed some of the relevant EU directives, including those for markets in financial instruments Directive (2004/39/EC) and transparency for listed companies Directive (2004/109/EC). The NCFM is currently in the process of approving secondary legislation, which would regulate, inter alia, investment companies, undertakings for collective placements, the investors’ compensation fund, public offers, takeover bids and capital market infrastructure.

There remains the question of revising the approximation commitments of the Association Agreement, in line with new EU legislation. Since the 2008 financial crisis, there have been
fundamental revisions of the EU’s regulatory legislation, as for example with the entry into force in January 2018 of MiFID II for a wide range of securities markets. MiFID II is universally seen to be the most complex and burdensome of financial market regulations, suited only for the most sophisticated markets for securities. Without a doubt there should be no precipitous moves for Moldova to take on new commitments here.

In May 2019 the Central Securities Depository (CSD) became fully functional as the institution responsible for recording, safekeeping and settlement of state and corporate securities. This consolidates the financial infrastructure necessary to ensure transparency and financial safety when conducting transactions with securities in the local capital market.

**Insurance.** As of the end of 2019, the Moldovan insurance market comprises 14 insurance companies, 13 of which are specialised in non-life insurance and 1 in composite insurance, and numerous insurance brokers and agents as legal persons. In 2019, gross premiums written amounted to MDL 1,625 million (€69 million), up from MDL 1,203 million in 2014 (€63 million), the main element being motor vehicle insurance. Market concentration remains high, with the five largest insurance companies accounting for some 66% of gross premiums written in 2019.

Legal approximation of the EU’s Solvency II Directive, on the business of insurance and reinsurance, is envisaged within seven years of the entry into force of the Agreement. This substantial time delay reflects the fact that Solvency II requires a risk-based approach for calculating solvency capital requirements for insurance undertakings, which will be difficult for the insurance market of Moldova without prior enhanced market capitalisation. Provisions of the directives relating to motor vehicle liability, insurance mediation and supervision retirement shall be implemented within three years of the entry into force of this Agreement. In this respect, the launch of a comprehensive reform process of the insurance sector, which also implies the transposing of these directives into national legislation, has been foreseen for several years, but the process has not yet started.

**Pension reform.** In 2020 the first reading of the draft law on optional pension funds, which sets out the legal framework for the creation and operation of optional pension funds, was approved.
Thus, alongside the mandatory social insurance system, people will have the opportunity to join and to contribute to a pension fund to obtain an additional income for retirement. The competences of supervision of these funds are to be delegated to the NCFM.

Reform and approximation prospects and priorities. The financial sector is one of the key areas of cooperation under the Association Agreement for promoting the market economy, even if the EU does not offer Moldova a comprehensive market opening in financial services immediately or unconditionally. The process of legislative approximation is the precondition for market opening by the EU. As mentioned above, however, only the banking sector of the financial market of Moldova is developed. Therefore, adopting international standards in the areas with limited or almost no development would be very difficult, but achieving these objectives is necessary for building a functional market economy in due course.

The transposing process of the EU acts that had to be adopted into national legislation by 2019 has not wholly kept to schedule. However, several legislative acts have been adopted or are in the process of adoption, which transpose some of the most important actions set out in Annex XXVIII-A of the Association Agreement. Currently, the strategic planning document for the 27 directives and regulations set out in Annex XXVIII-A of the Association Agreement is represented by the National Implementation Plan of the EU–Moldova Association Agreement (approved by Government Decision No. 1472 of 30 December 2016), but it covers all the areas of the Agreement and does not specify the financial part directly. At the end of 2019, from the total number of seven actions proposed for the years 2017-19, five have been realised.

A series of focus groups was organised in the summer of 2019 to evaluate the implementation of the Association Agreement. The event was dedicated to financial services, and revealed that only a small minority of respondents felt that the transposition of European legislation was being done correctly and on time. However, the representatives of the regulatory authorities argued that there had been a colossal effort, especially in relation to the Basel principles for the banking sector. The 2014 bank fraud has

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delayed implementation reforms. Moreover, for the non-banking financial institutions and especially the insurance sector, there are widespread capacity problems for implementing regulations, and more time is required. The new MiFID legislation is seen as going beyond the needs and capacities of the current state of the financial market, with more time needed to see how this new directive is implemented in the EU itself.

Finally, the financial sector has a vital role in the context of the Covid-19 pandemic. On the one hand, financial institutions must remain stable to provide critical functions to the population, economy and government. On the other hand, financial institutions and regulators must come up with solutions to help the growing number of highly vulnerable customers. To prevent and mitigate the risks and challenges during the pandemic, the regulatory bodies have developed a set of measures and recommendations. Thus, the Executive Board of the BNM recommends that licensed banks refrain from paying dividends and other forms of capital distribution to shareholders, at least until 30 September 2020. The NCFM made a similar recommendation to the insurance companies and non-banking credit organisations. In addition, the BNM allowed licensed banks to postpone or change the payment deadlines and/or the amounts of due payments on loans granted to economic agents. A flexible approach was also suggested towards the payment obligations of individuals having difficulty paying their loans. To prevent any liquidity risks and stimulate the lending process, the BNM decided to decrease the required reserve ratio in MDL and non-convertible currencies to 32% (from 41% as it was at the beginning of the year), as well as to decrease the base rate to 3% (from 5%).
Financial services at a glance

Until recently, Moldova’s banking and financial market system was, while underdeveloped, sound in its basic functions.

At the starting point for implementation of the Association Agreement, the financial sector was hit by a huge banking fraud. This was uncovered in 2014 and resulted in the liquidation of three major banks. Investigation of this fraud advances but the assets have not been recovered nor the perpetrators punished.

The Association Agreement foresees a comprehensive approximation on EU regulatory norms, mostly within three years. But this is getting off to a slow start.

The EU and Moldova agreed on a modest update of Annex XXVII, but a more comprehensive update is needed.

A broad process of reform and recovery of the bank sector focuses on three undertakings: i) alignment on Basel III standards; ii) strengthening the regulation and supervision of the non-banking financial market, and iii) aligning the general financial reporting framework on EU practices. In all areas, the developments are positive.

Much of the EU legislation is extremely complex, especially its latest versions, such as MiFID II. There should be no precipitous updating and extension of Moldova’s obligations in this respect.
16. **Transport**

Transport has been a key sector for the internal market since the early days of the European integration process. As a result, the EU has a well-established body of law and policies in this field. The DCFTA aims to expand and strengthen Moldova’s transport cooperation with the EU and thus to promote efficient, safe and secure transport operations as well as greater interoperability of transport systems. This will be fundamental for helping Moldova’s industries to integrate into the European supply chain and to boost contact between people.

**Provisions of the Agreement**

The DCFTA provides for a progressive liberalisation of transport in road, rail, inland waterways and intermodal, with approximation of many EU standards (Annexes X and XXVIII-D). For air transport, these rules are laid down in the 2012 EU-Moldova Common Aviation Area Agreement (CAA). Of all the transport modes, road and air have special importance for links with the EU.

**Road transport.** This transport mode is the economically most vibrant in EU-Moldovan relations and will thus require the most attention. Goods and passenger transport companies, operators and drivers from Moldova are expected to fully comply with the EU *acquis* if they wish to engage in ‘trucking’ in the EU. The case of road haulage transport is complicated by the fact that access to the EU’s market is subject to detailed quota provisions and permits issued at the level of the member states, which fear that
their markets will be overrun by cheap Moldovan truckers. Under the DCFTA, eight member states have issued reservations to the full liberalisation of the road transport sector with Moldova.

Nevertheless, Moldova has agreed to approximate its legislation to the EU’s road transport acquis within strict timetables. For instance, immediate priority should be given to EU rules on driving licences, to be implemented upon the entry into force of the Agreement. A two-year period has been agreed for the implementation of the conditions to pursue the occupation of road transport operator and the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers. Differentiated timetables exist for speed limitation devices (within one year for international carriers; eight years for national carriers), as well as inland transport of dangerous goods (as of the entry into force of the DCFTA for international carriers and within eight years for national carriers). This ambitious regime puts the onus on the Moldovan legislature to approximate domestic rules and standards to those of the EU, and introduce the necessary monitoring, inspection and enforcement mechanisms to assure proper implementation of the EU directives and regulations. This is arguably a costly affair that needs sufficient financial support from the EU.

Air transport. For all practical purposes, the DCFTA refers to the 2012 CAA, which aims to progressively liberalise air transport between the EU and Moldova, “adapted to their reciprocal commercial needs and the conditions of mutual market access”.

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1 According to standing case law of the CJEU, these bilateral agreements have to be in conformity with the existing EU transport acquis. See the judgments in Cases C-466-9/98, C-471-2/98 and C-475-6/98, Commission v. United Kingdom, Denmark, Sweden, Finland, Belgium, Luxembourg, Austria, Germany, 5 November 2002.
2 See Directive 91/439/EEC.
4 See Directive 2003/59/EC.
5 See Directive 92/6/EEC.
6 See Directive 2008/68/EC.
7 A report prepared for the Commission in 2011 by consultants estimated that the economic benefit of such an agreement at around €17 million per annum (mainly due to lower airfares, increased air travel and the associated economic activity). The
Removal of all market access restrictions between the EU and Moldova should attract new entrants to the market and create opportunities to operate for underserved airports.

The CAA promotes regulatory cooperation and harmonisation of regulations and approaches based on EU legislation in the field of aviation safety, aviation security, air traffic management, computer reservation systems (CRS) and the environment (measures listed in Annex III), as well as non-discrimination and the creation of a “level playing field for economic operators”. The CAA foresees the gradual transition of Moldova to the full application of the EU’s air transport law (Annex II). The transitional arrangements provide that the implementation and application by Moldova of all the laws indicated in Annex III are subject to an evaluation by the European Commission and validation by a separate decision of the EU–Moldova Joint Committee. Such an evaluation is to be conducted two years after the entry into force of the Agreement.\(^8\)

Yet the CAA does not confer complete internal market access to Moldovan carriers; these only obtain the right to fly between Moldova and an EU destination, either directly or via an intermediate point in the neighbourhood (Annex II). That excludes Moldovan carriers from operating flights within EU member states (cabotage) and flights between two EU member states unconnected to a flight to or from Moldova.

Moreover, the DCFTA excludes national and MFN treatment for domestic and international air transport services, whether scheduled or non-scheduled, with a number of exceptions: i) aircraft repair and maintenance services, during which an aircraft is

\(^8\) Until that moment, the right for the air carriers of both parties to exercise ‘fifth freedom rights’ other than those already granted by bilateral agreements between Moldova and the EU member states is excluded. The fifth freedom allows an airline to carry passengers from one’s own country to a second country, and from that country to a third country (and so on). Fifth freedom traffic rights are intended to enhance the economic viability of an airline’s long-haul routes, but tend to be viewed by local airlines and governments as potentially unfair competition.
withdrawn from service; ii) the selling and marketing of air transport services; iii) CRS services; iv) ground-handling services; and v) airport operation services (Arts 204-205 of the DCFTA). The reservations mentioned in the DCFTA have to be regularly reviewed by the Association Council’s subcommittee dealing with transport to progressively liberalise the establishment conditions. This ought to resolve the legal inconsistencies between the DCFTA and the CAA.9

**Railway transport.** The DCFTA aims to reform the rail transport sector and gradually liberalise the freight and passenger rail market, but to realise these goals, longer timeframes than the four-year timetables mentioned in the DCFTA will be required to implement the 11 EU regulations and directives listed in Annex X, in particular those regarding technical and safety conditions.

**Inland waterway transport.** The DCFTA imposes no national or MFN-treatment obligations on the EU with respect to national cabotage transport. Measures based upon existing or future agreements on access to inland waterways (including following the Rhine–Main–Danube link) do, however, reserve limited traffic rights for Moldovan operators. As with other transport modes, the priorities for approximation concern the conditions for market access, i.e. qualifications for operators, a central register, harmonised information services, safety standards for vessels and the establishment of a network of logistics centres, all to be implemented within an ambitious timetable of three years, except for transport of dangerous goods (immediately) and technical requirements of vessels (five years).

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9 In the same vein, Arts 204-205 relate to the freedom of establishment and not to the cross-border provision of services. As these services are typically provided through establishment, one could argue that the DCFTA regime will prevail in practice. In some cases, however, services are provided without establishment (e.g. self-handling), which will mean that the applicable rules will have to be derived from the CAA. Similarly, the DCFTA lists two EU-wide reservations on establishment in the area of air transport services, one relating to the rental of aircraft with crew, the other with respect to CRS (Annex XVI-A). The relevant provision on CRS in the CAA (Art. 13) refers to access to the market, without detailing whether this is through or without establishment. That may indeed create a conflict, in which case one could either argue that the specialised (i.e. the CAA) or the later agreement (i.e. DCFTA) takes precedence.
International maritime transport. The DCFTA prescribes a regime of “unrestricted access to cargoes on a commercial basis, freedom to provide international maritime services, as well as national treatment in the framework of the provision of such services” and contains a number of standstill clauses to prevent the parties to the Agreement from introducing measures constituting (disguised) restrictions or having discriminatory effects. The right of establishment for service suppliers is excluded for national maritime cabotage. The DCFTA does not create national or MFN treatment obligations for the EU for the establishment of a registered company for the purpose of operating a fleet under the national flag of Moldova.

Developments in EU law and policy

The main developments in EU transport law and policy concern road freight transport, for which the EU adopted in April 2020 a ‘Mobility Package’ of measures on drivers’ working conditions and access to the road haulage market within the EU. A major issue for road haulage within the EU has been full access to the market for ‘new’ member states such as Bulgaria and Romania, whose wage rates are much lower than in Germany, France and other ‘old’ member states. In particular there have been concerns about unlimited ‘cabotage’ (transport services within the EU market outside of the member state of origin of the truck). Various limitations on cabotage are specified in the Mobility Package. Other measures include the introduction of updated ‘smart tachograph’ equipment.

The new Mobility Package laws are still to be implemented and so are excluded from current plans for updating the road transport Annex of the Association Agreement. However, the issues raised in these internal EU negotiations would be raised in possible future negotiations between the EU and Moldova over a road transport agreement. The case for such an agreement is because the existing bilateral licensing system is extremely burdensome bureaucratically. The Moldovan exporter to Portugal, for example, has to arrange transport services that include multiple licences for

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access through many transit countries as well as for Portugal itself. The present system risks becoming a hindrance to EU-Moldovan trade expansion.

On 12 July 2017 the EU signed a Transport Community Treaty with the six states of the Western Balkans, whose objective is to progressively advance the integration of the transport markets for road, rail, inland waterways and maritime transport of the Western Balkan states with that of the EU, and for adoption of the EU transport acquis. The content of the Treaty has substantial overlap with the transport annexes of Moldova, but is more complete and up-to-date. The Transport Community also has a permanent secretariat in Belgrade and its own Council of Ministers and subordinate bodies. For Moldova, as for Georgia and Ukraine, the idea of accession to the Transport Community could be analogous to the case of the Energy Community, which was also initiated with the Western Balkan states and later extended to the Eastern European associated states. The advantage of a similar extension of the Transport Community would be to assure a seamless transport market for the whole area, with Moldovan transporters often needing to transit Western Balkan states to reach EU markets. It should be noted, however, that the EU does not envisage extending the Transport Community in this way at present.

**Implementation perspectives**

The prominence of the transport sector for EU-Moldovan relations derives from Moldova’s immediate proximity to the EU. Moldova is also a link between the EU and the CIS countries, crossed by internationally significant rail and road routes. The Association Agreement recognises the significance of rehabilitating and extending the internationally important road links crossing the territory of Moldova, starting with the M3 Chișinău–Giurgiulești and the M14 Brest–Briceni–Tiraspol–Odesa, as well as upgrading and modernising the rail connections with the neighbouring countries used for international and transit traffic (Annex IX).

Since the launch in 2017 of the public administration reform, the Ministry of Economy and Infrastructure (MEI) has become responsible for transport-related policies. The MEI plays a central role in the elaboration and implementation of the overall sectoral policy framework, namely the Transport and Logistics Strategy for
the period 2013-22, which aligns with the goals of the Association Agreement in the field of transport.

The Moldova–EU transport connections are important because of the high trade flows between the two sides; the EU is Moldova’s top trading partner for both exports and imports. Passenger transportation is also notable, given the increasing number of tourists travelling to the EU, especially after the introduction of the visa-free regime in 2014. Even so, the potential of this sector continues to be affected by a number of systemic problems, including low performance of public transport operators, illegal transport services and poor infrastructure system. There are also major problems at the frontiers with Romania and Ukraine, with a further need to avoid the Transnistrian region. The main corridors need to be redesigned.

In 2019, the volume of goods carried by transport companies (including all modes of transport) amounted to 18.9 million tonnes, a 3.7% decrease compared with 2018. But there was a reduction of goods transported by railway (of almost 14%), mainly caused by poor performance of agricultural production. Air transport performed better, increasing as it did by 18%. The Covid-19 pandemic reduced the number of passengers transported by 90% in April and 75% in May 2020 (compared with the same period in 2019). Moreover, the volume of goods carried by transport companies also decreased (by 35% in April and by 25% in May, compared with 2019). This also led to the suspension of several international transports, including the Chişinău-Iaşi train, for an indefinite period from March 2020.

A series of focus groups were organised during the summer of 2019 to evaluate the implementation of the Association Agreement. The transport sector focus group revealed serious delays in legislative approximation, and also scepticism over the Trans-European Networks (TEN-T). In addition to needed reforms in road and rail sectors, serious border delays were reported at the frontiers with both Romania and Ukraine.

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11 See Government Decision No 827 from 28 October 2013 on Transport and Logistics Strategy.
**Road transport.** The road transport sector has strengthened its leading position in the past few years, with about 77% of the total volume of freight, and about 97% of the total number of passengers carried in 2019. For local transport enterprises the main concern is the lack of transparency and high costs of obtaining international transport licences. The long delays (of up to 48 hours) required for customs clearance at the Moldovan-Romanian border is especially harmful for cargoes of agricultural produce. This is mainly due to insufficient personnel and heavy procedures on the Romanian side, though the National Agency for Food Safety on the Moldovan side may also cause delays.

Among the main partners that support transport-related projects, the most active remain the EBRD and the EIB. Currently, the projects on road rehabilitation financed by these two institutions amount to roughly €500 million, and concerns about 600 km of national roads, especially interconnecting corridors with Romania (the national road R1, Ungheni–Chişinău–Sculeni, the national road M3 Chişinău–Comrat–Giurgiuleşti), and rehabilitation of over 200 km of national road. Additionally, the Multiannual Assistance Framework of the EU for 2017-20 includes measures dedicated to the transport sector, with an indicative allocation of between €71–€87 million.\(^\text{13}\)

The alignment on European norms in the field of road transport was foreseen in the 2013 Road Transport Code.\(^\text{14}\) The Code partially includes the transposing of the main directives in the field, namely those related to social legislation and persons involved in road transport activities, as well as the legislation concerning the vehicles used in road transport.

**Air transport.** Air transport has become more stable in recent years, both in terms of freights and passengers. After the signing of the CAA agreement, the number of companies that operate in the

\(^{13}\) See Single Support Framework for EU support to Moldova 2017–20, Financial overview for the three sectors “Connectivity, energy efficiency, environment and climate Change”.

\(^{14}\) See Code No 150 from 17 July 2014 on road transport.

\(^{15}\) See Directive 2006/22/EC and Directive 2002/15/EC.

\(^{16}\) See Directive 96/53/EC and Directive 2014/45/EU.
airline market reached 16, three of which are registered in Moldova (Air Moldova, Fly One and Aerotranscargo SRL).

At the end of 2018, the Public Property Agency (APP) announced the successful privatisation of the public airline company Air Moldova for a price of MDL 50 million, with the investor assuming the company’s debts of over MDL 1.2 billion. With privatisation, the precarious financial situation of the company has been resolved, and the bankruptcy avoided. However, the sale remains controversial because of questions around how it benefited the ultimate owner. It is argued that Air Moldova was deliberately mismanaged to bring the company close to bankruptcy so that it could be privatised at a discount price. The new parliamentary majority established in June 2019 did not overlook these misgivings. Following a parliamentary inquiry, the government was tasked to assess the activity of Air Moldova over the past few years, including its privatisation, and to take the necessary legal action to return it to state ownership.

Much the same situation is seen in the case of Chişinău International Airport, for which the concession was granted for 49 years in 2013 to the controversial Avia Invest company. In July 2020, the APP decided to break the concession agreement with Avia Invest owing to severe failures in fulfilling contractual obligations and the accumulation of arrears under the investment programme. Avia Invest rejected these objections, and the case is going to court.

At the legislative level the Air Code adopted in 2017 and in force since March 2019 represents the basis for transposing the EU’s aviation legislation. It establishes the standards and procedures for aeronautical staff licensing, aircraft registration, air rules, aircraft, aerodrome, ground handling, aeronautical safety, etc. After the adoption of the Air Code, a number of national normative acts have been adopted, transposing the key regulations and directives set out in Annex III of the CAA agreement. In addition, several acts of secondary legislation related to air operations were adopted between 2018–19, ensuring the necessary legal ground for development of civil aviation according to the EU acquis. This

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18 See Air Code No 301 from 21 December 2017.
mainly refers to different administrative procedures relating to air operators’ and air traffic controllers’ certification, handling services, requirements for aerodromes and noise-related restrictions.

Railway transport. Moldova’s entire 1,200 km rail network is single track and not electrified. It is bordered by Romania’s railway network in the west and Ukraine’s in the east. Because of the break-of-gauge to the west, rail transport is directed eastward, mainly to Odesa. There are five passenger destinations outside the country, including trains from Chişinău to Iaşi (minimum five hours) and Bucharest (minimum 21 hours). In 2019, because of the poor performance of Moldovan Railways, the public railway service operator, the volume of rail freight transport dropped by 13.6% compared with 2018, while the number of passengers dropped by 32%.

According to the National Action Plan on the implementation of the Association Agreement 2017–19, the main commitments in the field of railway transport were to be achieved by the end of 2019. However, the new Railway Code has not yet been adopted. The draft project was only approved by the Government in June 2020 and presented to the Parliament for debates and adoption. It reflects various European directives and regulations mentioned in Annex-X. As mentioned above, the state-owned enterprise Moldovan Railways has been reorganised into three independent companies, dealing separately with infrastructure, passenger and freight. In practice, the state remains the owner of the railway infrastructure. At the same time, private operators could take over the management of the freight and passenger transport services.

This effort is complemented by substantial financial support from the EBRD with the purchase of 12 new locomotives, and from the EIB with loans granted for rehabilitation of the vital segments of the railway infrastructure (the Bender–Basarabeasca–Etulia–Giurgiuleşti and Cahul–Giurgiuleşti railway sections). In July 2020, the first six locomotives manufactured by General Electric were delivered and are ready for use as part of Moldovan Railways.

Inland waterway transport. Despite being possible on the lower Prut and Dniester rivers, shipping plays only a modest role in the country’s transportation system, partly because sections of the Dniester are under the control of the separatist Transnistrian authorities. In addition, the waterway transport on the Prut and
Dniester rivers is affected by climate changes, manifested by increasingly unstable water accumulations.

**International maritime transport.** In recent years, there has been significant development of the shipping infrastructure in the Giurgiulești Port Complex. The harbour was opened in 2006 and is the only port in Moldova that offers direct access to international waterways and the Black Sea. Located less than a kilometre from the border with Romania (and EU) and the border with Ukraine, Giurgiulești Port is at the crossroads of several international trade routes between the EU countries and Eastern European states, and the Baltic Sea and Black Sea countries. In 2019 the volume of shipments of goods increased by around 3%, registering a new record of almost 1.1 million tonnes. However, these capacities are less competitive than those of Romanian and Ukrainian ports located on the Danube River or the Black Sea.

Giurgiulești Port is controlled by various obscure interests, including monopolies and offshore operators. Only four companies have access to port services, setting the rules and dominating the market. Several lawsuits have recently taken place between the former and current owners.

Apart from the adoption and implementation of rules for the qualification of seafarers, safety standards for passenger and cargo ships, and legal acts on the liability of carriers of passengers by sea in the event of accidents, the DCFTA requires Moldova to harmonise its legislation on, inter alia, ship inspection and port state control. For this purpose, the Naval Agency was created in 2018 and empowered with supervisory and control functions in the field of water transport, registration of ships and examination of their technical condition, according to the EU model. Also, with the approval in 2020 of the Regulation on compliance with flag State requirements, Moldova takes important steps towards moving off the blacklist of the Paris MoU on Port state control.

**Territorial application.** A critical limitation in the application of the Association Agreement in the transport sector concerns Transnistria. Currently, Moldova does not have control over the roads in the Transnistrian region that are part of important international links, so cannot therefore rehabilitate them or monitor the transit of goods and passengers. In practice, illegal control at the
Transnistrian segment of the border violates the right to free movement and requires additional formalities and payments. Moldova cannot ensure that Transnistria will conform to international treaty obligations. Important work is being undertaken by the EU Border Assistance Mission (EUBAM) in relation to Moldova and Ukraine (for details see Chapter 27).

**Future developments sought by Moldova**

Moldova has made several proposals in its (‘non-paper’) submission to the EU’s consultations on the future of the Eastern Partnership (EaP) in relation to transport. These include:

- increased focus on ‘green’ transportation solutions in partner countries in line with European standards as a long-term goal;
- progress on the implementation of the Investment Plan for an extended TEN-T network, along with promoting multimodal transport solutions – appointing a European coordinator for the extended TEN-T network would facilitate such progress;
- progressive integration into the EU transport market on the basis of the relevant acquis, including in the areas of technical standards, interoperability, safety, security, traffic management, social policy, public procurement and environment, and continued support for the transposing of the relevant transport-related EU acquis of national regulations.

In addition, it is desirable for the EU to agree to opening negotiations for a road transport agreement that would allow for EU-level rather than bilateral member states’ licences. Moldova may also want to explore the idea of accession to the Transport Community of the EU and Western Balkan states.
Transport at a glance

The DCFTA sets out the EU’s detailed rules and regulations for most modes of transport (road, rail, inland waterways, sea and intermodal), typically governing the qualifications of transport operators, the technical safety of vehicles and vessels, and the activities of inspection bodies.

Air transport is covered by the 2012 EU–Moldova Common Aviation Area agreement (CAA), which aims to open up the air transport market to low-cost competition while respecting high safety standards.

The adoption of the new Air Code serves as the basis for the transposing of the process of Community legislation and for improving the quality of civil aviation regulations.

The existing Road Transport Code creates the necessary framework for ensuring the approximation with the European regulation in the field of road transport.

Railway sector reform is at an advanced stage, with a new Railway Code submitted to the Parliament for adoption. It includes the long-awaited concept for the reorganisation of Moldovan Railways into three independent companies dealing with infrastructure, passenger and freight.

Measures to improve control over the Transnistrian territory continue by expanding the common control border points between Moldova and Ukraine, with the assistance of the EUBAM.

Moldova remains committed to deepening the relationship with the EU on the transport dimension with a progressive integration into the EU transport market on the basis of the relevant acquis. Moldova may wish to explore the idea of acceding to the Transport Community of the EU and Western Balkans states.

A new EU-Moldova road transport agreement is needed to replace the current complicated system of bilateral licences.
The highly ambitious environment chapter of the Association Agreement commits Moldova to cooperation across the whole landscape of environmental policy issues. Given Moldova’s low starting point, implementation will be a long and difficult process, but will ultimately mean a radical improvement in environmental quality and the modernisation of the economy. EU environmental law has been undergoing substantial revision since the Agreement was signed, and this will lead to an important updating of the relevant annex. However, a further major dimension will be added with the EU’s proposed Green Deal, with which Moldova may wish to be associated.

Provisions of the Agreement

Moldova agrees to undertake a gradual approximation of its legislation to that of the EU within 2 to 10 years, in accordance with Annex XI of the Agreement on the environment, which lists 25 directives, and Annex XII on climate change, which has four directives. This covers most EU environment law and policy, from environmental governance methods to air and water quality, waste management, industrial pollution and hazards, nature protection, chemicals and climate change.

text is Directive 2011/92/EC). This requires that a long list of major project types (refineries, metallurgical smelters, major transport infrastructure, dams, etc.) cannot receive the go-ahead before an assessment of their impact on humans, fauna and flora, soil, water, air, climate and the landscape is published.

**Major pollutants and dangerous substances.** The centrepiece here is the Industrial Emissions Directive (2010/75/EU), which revises and modernises seven previous directives, thereby simplifying existing legislation and cutting unnecessary administrative costs. The directive covers all industries liable to produce harmful emissions: energy, metals, minerals, chemicals, pulp and paper, large-scale pork and poultry production, waste management industries, etc. It sets out the main principles for the licensing and control of such installations, specifying limit values for noxious substances. It requires the application of best available techniques.

The Ambient Air Quality Framework Directive (2008/50/EC) and four ‘daughter’ directives counter air pollution by laying down limits for specific pollutants. The parties are obliged to enforce standards of air quality within the prescribed limits. Where ambient air exceeds any limit value or target value in a given zone or agglomeration, the authorities are to ensure that air quality plans are established for those zones and agglomerations in order to achieve the related limit value. Procedures exist for exemptions or for the postponement of deadlines where limit values cannot be respected because of site-specific dispersion characteristics, adverse climatic conditions or transboundary factors.

Another key law is the Water Framework Directive (2000/60/EC), which, subject to several subsequent amendments, has established a framework for the protection of inland surface waters, groundwaters and coastal waters. The approach is based heavily on river basins, for which member states must prepare detailed management programmes. The parties should ensure that the pricing of water encourages consumers to use resources efficiently.

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1 These are notably: i) sulphur dioxide, nitrogen dioxide and oxides of nitrogen, and lead; ii) carbon monoxide and benzene; iii) ozone; and iv) polyaromatic hydrocarbons, arsenic, nickel, cadmium and mercury.
EU legislation for the prevention and control of catastrophic industrial accidents was triggered by a major accident at a chemicals factory in the Italian town of Seveso in 1976. The resulting ‘Seveso Directive’ (96/82/EC) was later amended in view of the lessons learned from accidents such as those at Bhopal, Toulouse and Enschede (2012/18/EU). The directive now applies to more than 10,000 industrial establishments in the EU where dangerous substances are used or stored in large quantities, mainly in the chemical, petrochemical, logistics and metal-refining sectors. The directive has contributed to reducing the incidence of major accidents and is widely considered a benchmark for industrial accident policy and a role model for legislation in many countries worldwide.

According to the hierarchy of waste management techniques, landfilling is the least preferable option and should be limited to the necessary minimum, in accordance with the Landfill Directive (1999/31/EC). Where waste needs to be landfilled, it must be sent to landfills that comply with the requirements of the directive. The objective is to prevent or reduce negative environmental effects as far as possible, in particular on surface water, groundwater, soil and air, and on human health. The directive requires a system of operating permits for landfill sites. Existing landfill sites may not continue to operate unless they are brought into compliance with the provisions of the directive. Moldova has a seven-year timeframe for implementation.

Natural habitat. Nature protection is subject to two directives for natural habitats and sanctuaries for wild birds (92/43/EC and 2009/147/EC). These directives establish principles and procedures for the designation of special protection zones and will be helpful references for the work of Moldovan NGOs in this domain.

Climate change. The central element of EU policy in this area is the Emissions Trading System Directive (2003/87/EC, updated in 2009/29/EC), with Moldova due to establish a compatible emissions trading system (ETS) within eight years of entry into force of the Association Agreement. This requires establishing a system of relevant installations, a national development plan for the distribution of allowances, and a system for these to be traded domestically. Further regulations governing fluorinated greenhouse gases and substances depleting the ozone layer, such as
hydrofluorocarbons, are to be implemented within four and five years respectively. Several provisions regarding the quality assessment of the consumed fuels, including the establishment of a system with data on fuels quality, are to be implemented within five years.

**New EU legislation and policies**

EU laws on environment have been amended and updated significantly, and cover all areas of environmental governance: air pollution, water quality and the marine environment, waste management, natural habitats, industrial pollution, chemical management and climate change.

EU environmental governance as laid down in Directive 2011/92/EU is updated by the newer directive, Directive 2014/52/EU, on the environmental impact assessments (EIAs). The Directive takes into account the threats and challenges that have emerged since the original rules were put in place. The amendments in the directive are introduced in the spirit of ‘smarter regulation’ and aim to simplify environmental assessment procedures and reduce administrative burdens.

The EU rules on air pollution are updated by the new directive on atmospheric pollutants (Directive (EU) 2016/2284) that amends and repeals the old directives (Directive 2003/35/EC and Directive 2001/81/EC). The new directive covers five air pollutants and sets emission reductions commitments per pollutant for each EU country to be attained by 2020 and 2030. The emission reduction commitments for each pollutant that will apply each year from 2020 to 2029 are the same as those to which the EU countries were already committed under the revised Gothenburg protocol; the stricter reductions will be applied from 2030 onwards. The EU also put in place another new directive, Directive (EU) 2016/802, to reduce the sulphur content of certain liquid fuels. The new directive sets the

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2 Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment was amended by Directive 2014/52/EU, which was supposed to be transposed in the laws of the member states by May 2017.


maximum permitted sulphur content of heavy fuel oil, gas oil, marine gas oil and marine diesel oil.


Other amendments are of a more technical nature and refer to the laws on waste management that have been amended several times from 2008 to 2018, the conservation of natural habitats and wild flora and fauna, the health certificates for imports of certain animals, industrial pollution, industrial hazards, chemical management and fertilising products.

EU laws on climate change are upgraded by reducing emissions of fluorinated greenhouse gases (F-gases) by 2030 (Regulation (EU) No 517/2014) and by cutting substances that deplete the ozone layer (Regulation (EC) No 1005/2009). Regulation (EU) No 517/2014 sets an overall yearly limit on the climate impact of F-gases and obliges the Commission to report on the effects of the regulation by 31 December 2022.

**The Green Deal.** Further major changes are expected in the EU’s policy on the environment and climate change in the

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8 Amendments refer to Directive 92/43/EC.

9 Regulation 96/82/EC was repealed by Regulation (EU) 2018/659.


11 Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures was amended several times from 2011 to 2019.


framework of the Commission’s proposition on the Green Deal post-2020, with the very ambitious goal to make Europe the first climate-neutral continent by 2050. To turn the political commitment into a legal obligation the European Commission has proposed its first European Climate Law.\textsuperscript{15} The law will turn the goal of the European Green Deal into a legally binding target of zero greenhouse gas emissions by 2050. This will be mainly achieved by cutting emissions, investing in green technologies and protecting the natural environment.\textsuperscript{16} The proposed climate law also includes measures to keep track of progress and to adjust the EU actions accordingly. The progress will be reviewed every five years in line with the Paris Agreement.\textsuperscript{17} The legislative proposal is subject to consideration and negotiation under the ordinary legislative procedure.

To trigger necessary investments for cutting emissions, the Commission has proposed the Sustainable Europe Investment Plan,\textsuperscript{18} including a Just Transition Mechanism and a Just Transition Fund to help the member states to transition to low-carbon green economies in a just and inclusive way. Following the Covid-19 pandemic, the EU has proposed considerable financial aid through various instruments and this largely reflects the EU objectives for decarbonisation and for building cleaner and more sustainable economies in its aftermath.\textsuperscript{19} The Just Transition Mechanism is supposed to make available at least €100 billion over the period 2021–27 in the most affected regions.\textsuperscript{20}

By definition, the objective of becoming a climate-neutral continent requires the EU to closely cooperate with its neighbours, particularly with the members of the Energy Community. As a result, ecological transformation is among the top priority areas in the EU’s March 2020 Communication on “Eastern Partnership policy beyond 2020”.\textsuperscript{21} The EU’s support in upgrading the climate

\textsuperscript{17}See https://ec.europa.eu/clima/policies/eu-climate-action/law_en.
\textsuperscript{19}See https://www.ceps.eu/the-mff-recovery-plan-breaks-with-a-fundamental-taboo/.
\textsuperscript{20}See https://bit.ly/3u2YD5F.
ambitions of the Eastern Partnership (EaP) countries is also stressed in the Conclusions on the EaP beyond 2020, issued by the Council of the EU (2020). However, neither the Communication nor the Council Conclusions set out much detail on how the EU is willing to integrate its associated states and other EaP neighbours into the Green Deal. It is important to develop a strategic regional approach here to make the most of the existing political will and potential of the region to transition to low-carbon economies. This would ensure simultaneous transition throughout the region and would avoid carbon leakage by replacing domestic higher carbon electricity production with other carbon-intensive imports.²² The potential of Black Sea offshore renewables, possibly alongside hydrogen or electricity grids, may become a crucial political platform for further enhancing the dialogue for strategic steering along decarbonisation objectives.²³

**Implementation perspectives**

*Environmental governance.* The radical and sustainable changes in the environment sector remain largely dependent on the coherence of the political engagement towards ‘green’ policies. Stronger institutional capacities of the central and local authorities, higher speed of the legislative approximation and consistency in financing play a crucial role in building from scratch or modernising the existing inadequate environmental infrastructure. Government reform in 2017 saw the reduction in the number of ministries from 16 to 9, and the Ministry of Environment become part of the new Ministry of Agriculture, Regional Development and Environment (MARDE). The newly formed MARDE is the core institution responsible for drafting texts and coordination regarding environment-related policies, with the aid of several agencies.²⁴ It is

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²² See https://www.ceps.eu/ceps-publications/delivering-the-european-green-deal-for-southeast-europe/.

²³ See https://www.ceps.eu/ceps-publications/delivering-the-european-green-deal-for-southeast-europe/.

²⁴ More specifically, these are the Waters of Moldova Agency; the forestry-focused ‘Moldsilva’ Agency; Environmental Protection Inspectorate, State Agency for Land Relations and Cadastre; State Hydro-meteorological Service; Geology and Mineral Resources Agency; Ecology and Geography Institute and National Agency for Regulation of Nuclear and Radiological Activities.
in charge of policies to ensure the rational utilisation of natural resources, promotion of ecological agriculture and environment protection. The overall state of the environment in Moldova is summarised in Box 17.1.

The national environmental legislation has been continuously developing since 1991 and is currently based on five primary laws: the Land Code (December 1991), the Law on protection of the atmospheric air (December 1997), the Water Law (December 2011), the Forestry Code (June 1996), and the Subsoil Code (February 2009). At the same time, the basic principles of environmental protection are set out in the Law No. 1515/1993 on environmental protection. Moldova has acceded to the most important international climate and environmental legal frameworks.25

The strategic policy framework is considerable. The most fundamental document is the Environment Strategy 2014–23 and Action Plan, which reflects the priorities of the Agreement. Other elements are the Waste Management Strategy 2013–27 (April 2013), the Strategy on adaptation to climate change 2020 (December 2014), the Biodiversity Strategy for 2015–20 (May 2015),26 the Action Plan for improving the soil 2017-20, and the 2014-18 Action Plan for forestation of the degraded soils. The principle of environmental protection was introduced into further strategic policy frameworks, such as the National Strategy for Agriculture and Rural Development for 2014–20, the tourism development strategy ‘Tourism 2020’ and the Programme on the promotion of the ‘green economy’ in Moldova for 2018-20. Moreover, the new National Development Strategy for 2030 embodies the environment goals of the UN Agenda 2030.

25 Namely, these are the Cartagena Protocol on Biodiversity (2002), the Protocol on emissions of persistent organic pollutants of 1979 (2002), the Kyoto Protocol (2003), the Rotterdam Convention on pesticides and industrial chemicals (2004), the Amendment to the Montreal Protocol on substances destroying the ozone layer (2005), and the recent amendments to the Kyoto Protocol and Basel Convention on the control and transboundary movements of hazardous waste, and the Paris Agreement, ratified in 2017.

26 Additional strategic measures are the National Programme on the establishment of the national ecological network for 2011–18 (August 2001) and the National Plan for extension of forest vegetation for 2014–18 (February 2014).
Box 17.1 Basic features of the Moldovan environment

**Water resources.** The main source of drinking water in Moldova is the groundwater, which supplies 100% of the rural population and 30% of the urban area. Of the surface sources, the Dniester and Prut rivers are of strategic importance. Their waters correspond respectively to the categories of quality: Dniester at II (clean); and Prut at III (averagely polluted). The main pollutants are elements of nitrogen, phenols, copper compounds and oil products.

**Soil and forestry.** The territory of Moldova consists mainly of highly productive soil (‘chernozem’ or black earth). However, the land is used inefficiently, and this leads to soil degradation and pollution (40% of agricultural lands are considered to be degraded), while forestry occupies less than 12% of the country’s territory.

**Air quality** in Moldova is moderate. The main sources of pollution are combustion units (electricity power stations and boiler houses) and transportation (auto, rail, air and fluvial). The volume of greenhouse gas emissions has been shrinking substantially, falling to one third of 1990 levels (43.2 mega-tonnes of CO₂ in 1990 and 14.6 mega-tonnes in 2018), due to the drop in industrial production after the end of the USSR, and in the consumption of fossil fuels (coal and oil fuel) in favour of natural gas as the main fuel for primary energy production. A worsening of air quality results from the doubling of cars in circulation from 404,916 in 2004 to 950,834 in 2018.

**Waste.** The major sources of waste production are mining, livestock and household waste. The latter growth at 10% annually, reaching 0.7 tonnes/capita in 2018. Substantial amounts of pesticides accumulated during Soviet times have been evacuated abroad and destroyed using external assistance. A list of 20 categories of waste sources (mineral, agricultural, manufacturing, etc.) was elaborated in line with the waste management law of 2016.

**Natural areas.** Only 5.6% of national territory are natural areas under state protection and these include 312 landmarks. Among the most numerous landmarks protected by the state are natural hydrological and botanical objects, rare flora and fauna, natural reservations, and landscape reservations. In 2013, the authorities passed a law establishing Orhei National Park, the country’s first. Three wetlands, accounting for 94,705 ha, have been created to protect the habitat of aquatic birds: the lakes of the Lower Prut, the Lower Dniester and the Ungheni-Holoșnița Zone.
All these strategic documents present a series of objectives to be achieved on the environmental dimension. Additionally, consistent financial allocations both from the state budget and from external sources are envisaged to fulfil the commitments. However, public spending on environmental protection remains extremely low compared with the EU, while private investment seems insignificant. More than that, the efficiency of existing public expenditure is questionable, considering the high number of unfinished water and sanitation infrastructure projects that do not even belong to the field of environmental protection.

Work on institutional reform of the Ministry of Environment started in 2015, and included the establishment of an Environment Agency. However, the government reform of 2017 and the absorption of the Ministry of Environment into the MARDE slowed the process down. The Environment Agency was finally established in mid-2018 after a delay of three years, with attributions in the implementation of the state policy oriented towards environmental protection. At the same time the Environmental Protection Inspectorate was also created, with attributions of supervision, prevention and control of violations in the field of environment. It is also subordinated to the MARDE and includes the Fisheries Agency. Finally, the reform foresees the approval of new regulations regarding the organisation and functioning of the ‘Waters of Moldova Agency’ and the forestry-focused ‘Moldsilva Agency’, which is due to be developed in the next period.

A National Programme for the Green Economy and a roadmap promoting ‘greener’ SMEs and agriculture and energy efficiency was drafted between 2015–17 with the support of an EU project (EaP GREEN) and approved at the beginning of 2018. The Programme aims to implement the commitments stipulated in the Agreement relating to the promotion of the green economy, and other commitments assumed in various strategic documents. The basic provisions are oriented towards the implementation of the principles of the green economy in sectors such as energy (energy efficiency and use of renewable sources), organic farming, sustainable transport, greening of SMEs, sustainable public procurement, construction, education for sustainable development,

green industry and sustainable production and consumption. To monitor the measures dedicated to the green economy, approximately 20 indicators based on OECD green growth indicators have been included in the Programme.

**Major pollutants and dangerous substances.** A major step towards managing air quality was taken with the drafting of the Atmospheric Air Protection Strategy to reflect the provisions of Directive 2008/50/CE on ambient air quality and cleaner air for Europe. Despite the fact that the Strategy was drafted and submitted for public consultation at the beginning of 2018, it was still awaiting government approval in mid-2020.

As part of the measures to implement the Rotterdam Convention on pesticides and industrial chemicals, the authorities drafted a law and regulations on the use of chemicals, and the export and import of dangerous chemicals (transposing Regulation (EC) 689/2008). This will be followed by a law to transpose the EU’s main law for regulating chemicals, the REACH Regulation (EC/1907/2006). The drafting of the law to transpose the Seveso Directive (96/82/EC) on the control of major accident hazards involving dangerous substances was initiated. The Regulation implementing the provisions of Directive 1999/32/EC on the decrease of sulphur content in certain liquid fuels was approved in April 2016. A law on waste was drafted, approximating Directive 2008/98/EC on waste.


**Water Framework Directive.** Action plans for the administration of the two national watershed districts, the Dniester River, and Prut-Danube and the Black Sea, have been approved in
2017 and 2018 respectively. The watershed districts are administered by two committees with consultative attributions, comprising representatives of central and local authorities, consumers’ associations, civil society and the scientific community. To improve the protection of water resources, the authorities modernised the monitoring system for the Dniester River by establishing and equipping 14 automatic hydrological stations, with the support of the World Bank and the (US) Millennium Challenge Corporation. The functioning of the watershed districts corresponds to the provisions of the Directive 91/676/EEC regarding the protection of waters from pollution caused by nitrates from agricultural sources (Governmental Decision of October 2013). At the same time, to control water resources, ensure rational and sustainable use and their protection, the State Cadastre of Water Resources was established in 2019.

**Flood risks.** A feasibility study to assess the risk of floods started in 2014, with the support of the EIB. The study envisages drawing up maps of regions vulnerable to flooding and establishing the Operational Monitoring and Management System of the Dniester and Prut rivers. It supports the implementation of the 2013 Regulation on floods risk management, which transposes the 2007/60/CE Directive. In 2018 the government approved “The reform concept of the national system for management, prevention and reduction of flood consequences”, which contains a number of actions aiming to improve the situation in this area. One of the most important actions mentioned in the concept refers to the development of plans for river flood risk management (targeting the Dniester and Prut rivers). At the beginning of 2020 the plans were elaborated and the public consultation procedure was launched. Nevertheless, the floods of spring 2020 revealed new risks, including old dam infrastructure for most ponds and lakes, as well as the critical state of the rivers and canals network. Overall, the floods have become more regular in the past decade, with massive floods on the Prut and Dniester rivers in 2010 and 2020 and almost annual floods on small rivers caused by torrential summer rains. Thus, the risks of floods are not related only to the Dniester and Prut rivers, but also to the poor capacity of the internal hydrological infrastructure to cope with heavy rains.
Urban wastewater treatment. Directive (91/271/EEC) is partially reflected in the Regulation on requirements for the gathering, treatment and discharge of wastewater (Governmental Decision of 25 November 2013), and the Regulation on conditions for discharge of wastewater from water bodies (Governmental Decision of 9 October 2013, amended in October 2014). A strategy on sludge treatment at sewage plants had to be adopted by 2019. However, this was not a priority for the authorities and only a guideline in the area was developed within the project “Strengthening the institutional framework in the water and sanitation sector in the Republic of Moldova”, financed by the Swiss Agency for Development and Cooperation and the Austrian Development Agency.

Drinking water quality. A regulation (conforming to Directive 98/83/EC) regarding water for consumption was drafted and examined by the National Coordination Committee concerning the Water and Health Protocol,\textsuperscript{28} ratified by Moldova in July 2005. Since 2016, with different donors’ support,\textsuperscript{29} the authorities conducted activities on the implementation of the protocol, including training for water operators, promoting the adoption of relevant standards and developing partnerships between institutions in the field of public health and environment. A new law establishing the legal framework on drinking water quality, as well as measures for ensuring the compliance of international drinking water quality, was adopted in 2019.

Natural habitats. The Strategy on Biodiversity and the Action Plan\textsuperscript{30} is an important breakthrough regarding biodiversity that foresees a budget of €1.7 million (MDL 38.6 million), 20% of which will be covered by external assistance. The strategy aims to ensure a legal framework for the conservation of biodiversity, build up an efficient institutional framework, extend the natural areas under state protection, establish a national ecology network and ensure

\textsuperscript{28} See the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1992.

\textsuperscript{29} Namely World Bank and Swiss Agency for Development and Cooperation according to National Programme to implement national targets under the Protocol on Water and Health, https://www.legis.md/cautare/getResults?doc_id=102596&lang=ro.

\textsuperscript{30} The Biodiversity Strategy was adopted by Governmental Decision No. 274 of 18 May 2015.

Waste management. In 2018, the concept of the “Automated Waste Management Information System” (SIA MD)31 was adopted along with instruction on waste management record keeping. An exhaustive list of wastes, including dangerous ones, that ensures the necessary conditions for recording of waste categories and correct reporting, was also adopted. However, the effective implementation of the system only started in spring 2019 with the development of technical requirements of the SIA MD system. Thus, the data related to economic operators, the volume of products placed on the market that generate waste, and the volume of waste recovered are not yet available.

In 2019 the necessary legislative framework for waste incineration was adopted after a series of fiery debates between experts, civil society and the business community. According to the new amendments, the economic operators will be allowed to burn waste in special installations if they prove compliance with specific conditions for installations and environmental protection requirements. Therewith, incineration of waste will be allowed only in units authorised by the Environment Agency in compliance with the emission limit values set out in specific regulations.

Finally, household waste management continues to be a major challenge for the authorities, especially in large cities such as Bălți and Chișinău. The problem stems from both poor waste sorting habits and reduced capacities of landfill sites for waste collection, such as in the village of Țințăreni, which serves Chișinău, and in the village of Bilicenii Noi, which collects household waste from Bălți municipality. As long as these sites do not comply with environmental protection measures the local population perceive them as a source of pollution of the air and the underground water that they use for irrigation and household consumption. Thus, with

31 Sistemului informațional automatizat „Managementul deșeurilor” (SIA MD) in Romanian.
alternative solutions at the stage of political debates rather than any policymaking forthcoming at local and central levels, there are often protests demanding the cessation of waste storage in these places.

*Genetically modified organisms (GMOs).* The regulatory measures on GMOs continue to be ensured by Law No. 755-XV of 21 December 2001 on biological security. The adoption of a new law, namely the Law on GMOs, has already been postponed several times because of resistance from the business sector. At the end of May 2020, the project has been submitted again to the government for approval after a series of adjustments. The draft law on GMOs was further elaborated in 2015, partly transposing the provisions of Directive 2001/18/EC on the release into the environment of genetically modified organisms, and the provisions of the Cartagena Protocol on Biosafety of January 2000 to the Convention on Biological Diversity. The law foresees the establishment of standardised procedures for assessing the impact of GMOs on environmental and human health, monitoring activities, mandatory labelling and packaging of the products containing GMOs, establishment of the infrastructure to perform analyses (laboratories), and so on.

*Climate change.* The framework for the climate-related policies is represented by the Strategy on adaptation to climate change until 2020 and the related Action Plan, adopted with a budget of MLD 2.7 billion. The strategy reflects the provisions of the Association Agreement, and includes measures to increase the country’s capacity to adjust and react to the negative effects of climate change (e.g. droughts and floods). In addition, a *Low Emissions Development Strategy* aiming to cut emissions levels by 2030 by 64% compared with 1990, was adopted in December 2016 and is in line with the provisions of the global agreement on climate change adopted in Paris in December 2015. This target will be achieved through a series of actions, however, without mentioning the implementation of an ETS system or joining the EU ETS.

Unlike Ukraine, Moldova has committed to transpose only a few provisions of Directive 2003/87/EC within eight years of the entry into force of this the agreement, namely: (i) establishment of a system for identifying relevant installations and for identifying

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32 See Governmental Decision No. 1009 of 10 December 2014.
greenhouse gases (Annexes I and II of the Directive); and (ii) establishment of a monitoring, reporting, verification and enforcement system. In 2018, the government approved a regulation monitoring and reporting the CO₂ gas emission, with the list of installations in line with the Directive 2003/87/EC and the methodology on calculating the impact of biofuels and bioliquids on greenhouse gas emissions. Even if these regulations do not set up the infrastructure for an ETS mechanism, they ensure a minimum institutional framework and statistical data necessary for the future development of an ETS. At the moment, the monitoring, reporting and verification can ensure a better systemised collection and processing of data related to greenhouse gas emissions. Additionally, the EU4Climate project launched in 2019 aims to conduct a study on the feasibility and costs of the implementation of the EU ETS in Moldova.

**Major challenges.** Current environmental policies face various shortcomings, including a scarcity of human and financial resources, and corrupt practices in managing public properties, including land and forests (with dubious procedures for renting land in forests). Overall, there is a substandard administration of water, forestry and soil resources, and poor waste management. There are problems inhibiting the improvement of air quality (incomplete harmonisation with the European legislation, inefficient monitoring, etc.) as reported by the Court of Accounts in November 2017.

There are still risks arising from Ukraine’s plans to increase the production capacity of the Dniester Hydroelectric Station (Novodnistrovsk). A bilateral agreement with Moldovan authorities, with a duration of 99 years, was drafted in 2017, but this has come under fire for breaching various EU directives, endangering the sustainability of water resources for Moldova and the Odessa region of Ukraine, and damaging the river’s ecosystem. Following numerous criticisms from civil society and the expert community, the authorities of both countries reached an agreement in 2019 to postpone the construction plans of hydroelectric power plants. Even so, a final document in this regard was not signed, the Ukrainian side being able to return at any time to the initial plans. Since 2018, a permanent consultation platform – Joint Dniester River Commission – where the Moldova and Ukraine discussions about
the sustainable development of the river became operational, under Moldova-Ukraine Dniester River Basin, signed in 2012.

The effects of climate change have increasingly affected Moldova. This challenge is acknowledged in different strategic plans including the National Climate Change Adaptation Strategy, the National Development Strategy Moldova 2030 and Government Action Plan (2020-2023). However, the total government allocation for the environment, energy efficiency and regional development funds accounts for only 2% of the national public budget over the past few years (2018/2020), according to the annual State Budget Law.\(^{33}\) Also, according to independent experts’ estimates, only about 50% of the initially allocated funds have been executed,\(^{34}\) which indicates serious deficiencies both in terms of planning and the capacity of the authorities to implement the projects in the field. At the same time, despite the existence of public funds dedicated to environment, there is no particular fund supporting climate-smart business or climate-change adaptation with the engagement of the private sector. The green economy programme seems to be quite challenging in terms of financing, especially with the Covid-19 pandemic and the sharp increase in the budget deficit.

To strengthen institutional capacities and modernise the legislative framework related to the environment, Moldova has benefited from the technical support of the EU4Climate project since 2019. Funded by the European Union and implemented by UNDP, the project helps Moldovan authorities to draft the relevant legislation and transpose the EU climate acquis. The immediate priority is the transposition into national legislation of selected elements in the EU Regulation on fluorinated gases (Regulation EU 517/2014), also known as F-gases, used in coolers, refrigerators and so on. Further priorities are the transposition of the directives on the European Greenhouse Gas Emissions Trading Scheme (Directive 2003/87/EC) and ozone-depleting substances. At the same time, there is a major delay to the drafting of the law on industrial emissions, which also includes the integrated environmental permit mechanism (Directive 2010/75/EU).


Since 2012 Moldova has had an administrative arrangement in the field of civil protection through the EU Civil Protection Mechanism (CPM). The Association Agreement extends the CPM prevention, preparedness and response cooperation activities. The cooperation aims not only to prevent, prepare and respond to disasters in Moldova, but also to contribute to social and environment stability. The most recent support Moldova obtained within the CPM was during the Covid-19 crisis, which has been classified as a natural disaster (e.g. the decision of the Romanian Government to allocate €3.5 million as humanitarian aid for Moldova or the humanitarian aid from the Government of Poland).

**Future developments sought by Moldova.** In its contribution to the EaP structured consultation, Moldova expressed its interest in strengthening cooperation on low emissions and climate resilience objectives in line with the Paris Agreement. The country also wishes to improve and consolidate climate policies and legislation with the EU to limit the impact of climate change on citizens’ lives. Taking into account the ambitious activities proposed, the authorities and the external partners have agreed that a National Energy and Climate Plan should be developed. The scope of this plan is to integrate the different energy and climate planning processes of the country into one document to deliver a coordinated approach.
Environment at a glance

Moldova’s environmental legislation is extensive, and the newly drafted strategic framework focuses on all aspects covered in the Association Agreement (biodiversity, waste management, water supply and sanitation, forestry, climate change, etc.). A new focus is placed on the green economy and the UN 2030 Agenda.

Governmental reforms of 2017 absorbed the Ministry of Environment into an enlarged Ministry of Agriculture and Regional Development (MARDE), but this has created complications for building institutional capacities dedicated to the environment.

Moldova’s codes and laws are being aligned with European legislation, although the lack of full political engagement and insufficient financial and human resources cause difficulties and delays.

Moldova has become increasingly affected by the effects of climate change, with both severe drought and floods experienced in 2020. These phenomena are happening more and more often (e.g. floods of 2010 and droughts in 2015 and 2019), requiring serious and immediate interventions, including the extension of public expenditure in this area.

National authorities and European partners have agreed on the elaboration of a National Energy and Climate Plan that integrates different environmental and climate commitments into one consolidated document to deliver a coordinated approach.
The reform and modernisation of Moldova’s energy sector is a challenge of the highest priority, for both economic and geopolitical reasons. The Association Agreement’s provisions are relevant for the necessary policy reforms to the energy sector. The regulatory reforms will be complemented by major investment to link power networks to those of the EU, via Romania. The energy sector stands to be much affected by the European Commission’s proposed Green Deal, as discussed in the preceding chapter.

Provisions of the Agreement

The Agreement contains two separate chapters on energy; one under the DCFTA heading concerns trade-related issues, and the second concerns broader cooperation on energy policy. Both chapters include references to the Energy Community Treaty to which Moldova acceded as a full member in 2010.

Energy Community Treaty.¹ This Treaty pre-dates the Agreement but its contents are carried over. The purpose of the Treaty is to provide for the application of much of the EU’s energy and environmental law in neighbouring non-member states. Because the intentions and content of the Treaty are entirely

consistent with and overlap the Association Agreement, the latter includes references to the Treaty and, in particular, states in Art. 278 that in the event of conflict between the two texts, the Treaty will have legal precedence. For present purposes, therefore, the content of the two texts can be taken as parts of the same political project, even if there are legal distinctions between the two.

The blocks of EU law that feature in the Treaty cover the following aspects:

- electricity and gas, with rules for internal markets, access to networks, cross-border exchanges and security measures
- renewable energy promotion
- energy-efficiency measures
- oil, with a provision for maintaining minimum stocks
- environment (see also Chapter 17).

Among these provisions, the rules for electricity and gas networks in the ‘unbundling’ directives\(^2\) of the Third Energy Package are of particular importance. These require that transmission operators, such as electricity transmission line and gas pipeline companies, are separated from producers or suppliers of energy, and assure freedom of access to these transmission infrastructures for all suppliers or producers of energy. These unbundling provisions are crucial to the demonopolisation of Moldova’s energy markets.

**Trade-related requirements of the DCFTA.** The DCFTA chapter on ‘trade-related’ energy applies basic free trade provisions to the electricity, crude oil and natural gas sectors. Customs duties and quantitative restrictions on the import and export of energy goods are generally prohibited. Energy prices for the supply of gas and electricity to industrial consumers must be determined solely by market prices. This chapter includes provisions on cooperating

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\(^2\) See Directive 2009/72/EC for common rules for the internal market for electricity, replacing Directive 2003/54/EC; see also Directive 2009/73/EC concerning common rules for the internal market in natural gas, repealing Directive 2003/55/EC. The Agreement in its Annex VIII refers to the two repealed directives, while the Energy Community Treaty is more up-to-date, and in any case its provisions have legal precedence.
on infrastructure, establishing an independent regulatory authority, and exploring and producing hydrocarbons.

Regarding the transit of energy goods, the DCFTA incorporates elements of Art. V GATT 1994 and of Art. 7 of the 1994 Energy Charter Treaty,\(^3\) both of which assure the freedom of transit. Furthermore, under Art. 351 of the Agreement the EU and Moldova must ensure that transmission system operators minimise the risk of accidental interruption or stoppage of transit and transport. But a party must not be held responsible for an interruption of supply over which it has no control (e.g. interruptions caused by Russian actions).

**Broader provisions on energy cooperation.** This chapter envisages cooperation in general terms over virtually the whole landscape of energy policy issues, including policy strategies, crisis mechanisms, infrastructure modernisation, the enhancement of energy security, energy efficiency and savings, and support for renewable energies. Annex VIII of the Agreement lists numerous EU laws and the timetables for Moldova’s ‘gradual approximation’, including the main provisions of the Energy Community Treaty.

**Technical requirements for energy-using products.** The Agreement also sets out in Annex VIII two framework directives for energy-using products. The first defines the eco-design requirements of energy-using products, such as household electrical appliances, to be implemented within three years of entry into force of the Agreement.\(^4\) The second covers the labelling of similar household appliances in terms of their energy consumption, to be implemented within two years.\(^5\) These regulations specify the technical conditions for the CE conformity mark, which allows products to be sold on the EU market. Following full implementation of the directives, all household appliances produced in Moldova will bear the CE conformity mark and can thus be sold on the European market.

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\(^3\) The Energy Charter Treaty of 1994 is not to be confused with the Energy Community Treaty of 2005. The Energy Charter was an early attempt to establish a wider international energy legal order for the post-Soviet era, including the EU, Russia and all other former Soviet Union states, and a number of non-European states. While the Energy Charter Treaty entered into legal force, Russia declined to ratify it.


New EU legislation and policies

The EU *acquis* in the energy sector has substantially evolved since the negotiation and signature of the Association Agreements.

*Electricity and gas.* New EU laws concern network codes,6 methodologies of calculating the charges of transmission system operators (TSOs) and publishing data and statistics on electricity and gas markets and prices.7 The new methodologies of calculating the TSO charges8 and publication of data and statistics present upgrades of a technical nature and aim to enhance integrity and transparency (Regulation (EU) 1227/2011). The new laws on network codes9 go beyond technicalities and bring major modifications related to connectivity and the efficient functioning of the electricity and gas markets.

*Oil.* The new EU law on the minimum requirements of the oil stocks are of a technical nature and refer to Directive 2009/119/EC which updates the old one (Directive 2006/67/EC) with the new methodology of calculating minimum stocks. The Directive is supposed to bring the legislation closer to current international practices of oil stocks and to prevent or minimise negative effects on consumers in the case of a supply crisis.10

*Renewable energies.* The new EU rules (Directive 2009/28/EC Directive (EU) 2015/1513) promote the use of renewable energy and cleaner transport to limit greenhouse gas emissions (GHG). These amendments aim for GHG savings through transition from conventional biofuels to advanced biofuels by placing a 7% cap on conventional biofuels in final energy consumption in transport by 2020.11

*Energy infrastructure.* Updates in the EU laws on energy infrastructure (Regulation (EU) No 347/2013) lay down guidelines

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8 See for example Regulation (EU) 838/2010.


on the priority corridors for the trans-European energy infrastructure. The Regulation also ensures quick implementation and close monitoring and evaluation of the projects of common interest. According to the regulation such projects will benefit from faster and more efficient permit-granting procedures and improved regulatory treatment.\textsuperscript{12}

**Energy efficiency.** New EU laws aim to bring the EU energy law in line with the 2030 energy efficiency and climate goals by reducing the EU’s dependence on imported energy, cutting emissions, strengthening consumer rights and alleviating energy poverty. The new directive (Directive (EU) 2018/2002) outlines more specific rules in line with the Clean Energy for All Europeans package. Among other things, this includes meeting a 32.5% energy efficiency target by 2030; removing barriers in the energy market that obstruct efficiency in the supply and consumption of energy; clearer rules on energy metering and billing; strengthening consumer rights; transparent, publicly available national rules on the allocation of the cost of heating, cooling and hot water services in multi-apartment and multi-purpose buildings where these services are shared, and strengthening social aspects of energy efficiency.

Other amendments include Directive 2010/31/EU and Directive (EU) 2018/844 on the energy performance of buildings and its supplementing regulation (Regulation (EU) No 244/2012) on establishing a framework for calculating cost-optimal levels of minimum energy performance requirements for buildings. These new directives accelerate the cost-effective renovation of existing buildings and promote smart technologies in buildings. In energy labelling\textsuperscript{13} and eco-design,\textsuperscript{14} amendments in the EU laws refer to the

\textsuperscript{12} See https://bit.ly/3wfc0Bc.


new directives and implementing regulations that mostly broaden the coverage of energy-related products, including products related to the use of renewable energy.


So far there are no updates planned in the annexes on energy of the Moldovan Association Agreement.

**Implementation perspectives**

**Regulation of gas and electricity markets.** Moldova has taken steps towards compliance with the EU energy market legislation as part of the commitments under the Energy Community (Law No 117 of 23 December 2009). Furthermore, in 2011 Moldova agreed, politically, to transpose the Third Internal Market Package (Third Energy Package), which, inter alia, requires establishment of a single, independent authority to regulate the energy market. The Association Agreement refers explicitly to Directive 2003/54/EC on the internal market in electricity and Directive 2003/55/EC on the internal market in natural gas regarding the attributions of the regulatory authorities for electricity and natural gas (Art. 353) as guarantors of the efficient functioning of the energy market. These directives are reflected in the national legislation adopted in December 2009 and were further amended in 2014–16. With the adoption of the Energy Law in September 2017 and previous gas

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15 This could be less relevant for Moldova as the country does not have operational nuclear power plants.
and electricity legislation in May 2016, Moldova has formally transposed the Third Energy Package. However, in practical terms, one of the key elements of the package – the unbundling between the producer and supplier – is progressing slowly in the electricity field, and even less so in the gas sector.

The responsible regulatory authority is the National Agency for Energy Regulation (ANRE), which in principle takes binding decisions autonomously and independently. The new energy law (Law No 174 of 21 September 2017) ensures more transparency in appointing the administrative council of the regulatory body, with the EU Delegation and the Secretariat of the Energy Community observing the selection process, which can lead to more political independence. This law was one of the conditions required by the EU for the €100 million macro-financial assistance (MFA) agreed in November 2017. According to this law, ANRE shall be guaranteed full financial autonomy from the parliament, but with checks of ANRE’s financial expenditures performed by the Court of Audits.

During 2015–2016, the social sensitivity of the tariff pricing frequently resulted in political interference. In 2015 ANRE decided to increase the tariffs on electricity and gas for final consumers (by 30%–37% and 15.6% respectively). The then Spanish-owned Gas Natural Fenosa and the Gazprom-controlled MoldovaGaz supported the proposal, but were confronted by pressure from the political opposition, independent experts and the public. Amid enormous public protests, ANRE suspended the increase in tariffs for 60 days while external audits were conducted, despite it being contrary to the law. These audits confirmed the necessity of increasing prices. IMF representatives also recommended the rise of tariffs to avoid the bankruptcy of the energy companies and the overall destabilisation of the sector. The protests continued, but ANRE confirmed the price increases for electricity, and to a lesser extent for natural gas, in line with the proposal of July 2015.

In January 2016, ANRE revised its previous decision and reduced the tariffs for natural gas by 10.9%, citing the reduced price for Russian natural gas and a review of the calculation methodology for tariffs.16 Then in April 2016, ANRE cut electricity prices by 11% for final consumers. The prices of imported electricity were cut by

27%, a decision justified by the regulator. In both cases, however, prices were cut following pressure from mass anti-government protests. Questioning ANRE’s independence in taking decisions, the Secretariat of the Energy Community called in 2016 for changes in the law and regulatory practices, to expand the competences of ANRE and enhance its independence and autonomy to help it to better comply with the Third Package: “Interventions in ANRE’s autonomous decision-making must be stopped.” This case showed the Secretariat taking a growing role in smoothing the dialogue between the regulator and the non-Moldovan market operators. The new legislation in the energy sector actually obliges ANRE to implement the international commitments, including those deriving from the Energy Community. A 2017 Memorandum of cooperation with the Secretariat foresees cooperation in developing the secondary legislation supporting the full transposition of the Third Energy Package. As a result, various acts of secondary legislation simplifying the tariff policy, changing of the suppliers by the final consumers, etc. were elaborated and adopted throughout 2018, but mainly in 2019–20.

Between the autumn of 2019 and the middle of 2020, the falling price of Russian gas, as well as post-oligarchic political changes, left ANRE free to reduce the tariffs for electricity, gas and even thermic energy. In the wake of the Covid-19 pandemic, the regulator prohibited the disconnection of services to householders, and penalties for non-payment of bills. In early 2020, ANRE brought a case of unlawful calculation of the monthly bill for thermic energy to the court.

Gas. Moldova’s gas market has until recently been fully monopolised (import supply, cross-border and national transmission, and distribution) under the vertically integrated joint-stock company MoldovaGaz (50% of shares belong to Gazprom, 36.6% to the Moldovan state, and 13.4% to the Transnistrian authorities). However, a second operator, Vestmoldtransgaz, was set up by the Moldovan authorities to administer the Ungheni-Iași interconnector with Romania, which required extension to the capital Chișinău to become profitable and therefore operational. In 2018, the Romanian state-owned giant Transgaz, through its

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17 Secretariat, op. cit., p. 139.
company registered in Moldova, privatised Vestmoldtransgaz under debatable conditions of competition. The gas pipeline was finished as far as Chişinău in 2020 in the midst of the pandemic, and this privatisation brought a Romanian (European) company into the Moldovan gas market for the first time, and the construction of the pipeline was secured with less politicisation, as well as avoiding any public indebtedness debts for the Moldovan state.

The Secretariat of the Energy Community has determined that the transmission operators do not meet the criteria for functional unbundling of the Third Energy Package, which has been legally delayed until January 2020. Following this, ANRE approved the Action Plan for unbundling the transport operator Moldovatransgaz from the supplier MoldovaGaz, which had been drafted in 2019 by a mixed group of stakeholders that also included the Secretariat. The plan consists of 12 phases and more than 80 activities, with a deadline of October 2020, which was subsequently pushed back by four months. In short, the supplier and transporting companies agreed to reorganise as horizontally functioning, completely separate enterprises, with an independent contractual basis for the activities of supply and transportation of the gas and ensuring decision-making and financial independence from MoldovaGaz. Indirectly, the Russian side has approved this deal, participating via MoldovaGaz in the consultations and the drafting of the plan of the unbundling, as well as sharing sensitive details of the bilateral commercial contract.

In addition, the authorities and ANRE have joined in efforts to improve the management of the only gas supplier MoldovaGaz, controlled by Gazprom, by appointing a new administration and assessing, albeit partially (2016–18), the activity and the book counts of the enterprises. The deviations revealed in investments plans, income calculations and artificially set expenses (MDL 3.6 million or around €180,000) covered by unfair tariffs, will be compensated through revised tariffs in the future.

The new law on natural gas adopted on 27 May 2016 introduced changes in line with the Third Energy Package, defining the organisation and functioning of the natural gas market, access to the market, criteria and procedures for the licensing of transportation, distribution, delivery and stocking of natural gas. It also envisages granting consumers the choice of gas suppliers, and
of negotiable prices. The law entitles ANRE to apply financial sanctions to the enterprises dealing with natural gas, and also to notify the Competition Council in cases of competition distortions. The right of consumers to switch gas supplier is another aspect of the gas law that is not yet applicable because of the monopolised structure of the gas market.

Some important steps to adopting secondary legislation on access to the gas transmission network have been taken, namely Regulation of 13 December 2016 on access to the natural gas transmission networks. ANRE and the Secretariat worked on preparing transmission and distribution network codes, which was adopted in 2019, as also on electricity network codes. Another essential legal act adopted by the Government in April 2019 was the Regulation on emergency situations in the natural gas market that explicitly governs the security of the gas supply and the eventual interruptions, implying collaboration with Romania and Ukraine.

**Electricity.** Moldova is largely dependent on electricity supplies from the Cuciurgan power plant in the Transnistrian region. Supplies from Ukraine have been of some significance, but were curtailed in 2014 because of the conflict there. The market remained a captive one for Cuciurgan between November 2014 and March 2017, until a first ever transparent tender occurred, based on Guidelines for the Annual Procurement of Electricity elaborated by the Energy Community in December 2016 and transposed into a normative act of January 2017 by then Ministry of Economy of Moldova. During the Covid-19 pandemic, the authorities simplified the bidding procedures.

The unbundling of the electricity distribution sector is an important achievement, with three companies (state-owned RED North, RED North-West and private RED Union Fenosa), legally separated from the transmission company. While the new Electricity Law of May 2016 envisages the ownership unbundling model, the state-owned transmission operator Moldelectrica is currently separated legally from the supplier and generator. The law boosts competition in the electricity market by giving consumers the right to choose suppliers, and opens the market to new participants such as renewable energy producers. According to

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the law, ANRE has the competence to monitor and sanction all stakeholders active on the electricity market, besides the owners of the licences.

The full implementation of the law took place between 2017 and 2019, through the adoption of the secondary legislation. Thus, ANRE together with the Secretariat drafted and adopted the Rules for the electricity market, which were needed to fulfil the Third Energy Package in the field. This document envisages the integration of the national system with the European one, adopting a new procedure for electricity procurement, and creating the basis for the next-day pricing market for electricity. However, joining the European Network of Transmission System Operators for Electricity (ENTSO-E) requires the synchronisation with Ukraine, which owing to the size of the system needs around €350 million (according to UkrEnergo) and (legal and technical) measures to be adopted until 2023.

**Transnistrian connections.** For both gas and electricity supplies, the present infrastructure, corporate structures and supply arrangements are closely connected to facilities in the Transnistrian region, which Chișinău does not control. This particularity delays the unbundling in the gas sector because of the difficulty in legally enforcing the property rights and control of the transport infrastructure that *de jure* belongs to the Moldovan side, but is *de facto* controlled by the administration of the breakaway region.

Moldova’s electricity consumption relies heavily on the Cuciurgan gas-fired thermal power plant in Transnistria (Cuciurgan–Moldavskaya GRES with 2,520 MW installed capacity), which, since 2005, has been 100% owned by Inter RAO UES, the Russian international energy-trading company. Imports from Cuciurgan increased in November 2014 up to 80% of the overall Moldovan demand, when shortfalls in coal-fired power production in the Donbas region of Ukraine restricted the export of electricity to Moldova. The Cuciurgan power plant is largely fuelled by natural gas, which it purchases from a Transnistrian company, Tiraspoltransgaz, which in turn purchases it from a Moldovan company, MoldovaGaz (whose ownership was described above).

This situation leaves open a major issue of indebtedness, unsolved up until 2020. The current debt of MoldovaGaz to Gazprom amounts to approximately $7 billion, 90% of which is
accounted for by non-payment of gas supplies by Tiraspoltransgaz. It is believed that at least a substantial share of the profit from non-payment by Tiraspoltransgaz is transferred to the budget of the Transnistrian authorities. This was estimated at $1.3 billion between 2007–16, which covered about 35% of the region’s budget for the same period.

Finally, Inter RAO UES has reported that it is investing in adjusting the Cuciurgan power plant to meet EU requirements regarding the coordination of electricity distribution (UCTE), and has already agreed with the state-owned operator Moldoelectrica to boost the connection of Cuciurgan to Romania’s grid by up to 400 MWt. The export of electricity from the region to regional markets, including Romania, will be enhanced after the interconnection Isaccea–Vulcănești–Chișinău, including a back-to-back station, which eventually becomes operational in 2021.

**Oil.** Moldova is entirely dependent on oil imports. Its commodity reserve law is not in compliance with Directive 2009/119/EC on the maintenance of oil stocks and emergency procedures, requiring, inter alia, a minimum of 90 days of import supplies. A law on ensuring a minimum level of oil product stocks has been drafted and should enter into force in January 2021. It foresees gradually increasing the volumes for emergency stocks maintained – from 30 days of average daily net imports in 2020 to 90 days in 2022.

**Renewables.** Moldova has a binding target of 17% for a renewable energy share in gross final energy consumption and 10% in the transport area by 2020, as required by the 2016 Law on promotion of renewable sources. The entering of the Law into force was postponed until 25 March 2018 so that adequate time could be provided for adopting the missing secondary legislation. The second report assessing the progress on promoting the renewables, published in 2017, shows some positive trends, e.g. increasing the share of energy from renewables to 27.8% in 2017, from 21.3% in 2010. ANRE confirms the status of energy production from renewables via tender-based principles and along fixed tariffs and ceiling prices based on investment costs per power unit (kW). The power from photovoltaic panels is half the cost of wind installations and about a quarter of the cost of biomass. The largest share of renewables comes from wind power, followed by solar (based on
quotas), biogas and biomass, and lastly hydropower. ANRE cooperates with the law enforcement agencies to spot deviations from the legislation among the producers of energy from renewables.

**Energy efficiency.** Overall, Moldova is complying only partly with the Energy Community *acquis* for energy efficiency. The country adopted the new energy efficiency law transposing the latest Energy Efficiency Directive 2012/27/EU in July 2018, becoming the first Energy Community contracting party to do so. The most inefficient sectors are residential buildings and transport. Various corruption cases related to the allocation of public funds have been reported, which have led to the activity of the Energy Efficiency Agency being revised, as well as of the operational procedures for financing the energy efficiency projects. In 2014–16, Directive 2010/30/EU and other labelling regulations on energy-related house products were adopted. The Law on Energy Performance of Buildings of 2014 requires implementation of the necessary buildings certification system.

More effective policy in the sector should include the reduction of energy losses in power and heat generation, transmission and distribution, the promotion of the market for Energy Services Companies and implementation of the energy efficiency provisions in public procurement. The 2019–2021 Action Plan on Energy Efficiency sets ambitious goals ahead for the government to invest in cleaner public transport and for regulating the economic activity to align the private sector with the goals of rationalising energy consumption. Important steps have been taken with the drafting of the regulations and methodologies that establish energy audits and guide the renovation of the national stock of buildings.

**Energy infrastructure investment projects.** The Agreement provides for support, in general terms, from the EU for investment in energy infrastructure via the EIB and the EBRD. Two important projects, one completed and one planned, for gas pipeline and electricity grid linkages with Romania, were the subject of an MoU between Romania and Moldova signed on 21 May 2015. The construction of the gas interconnector with Romania (Iași-Ungheni-Chișinău) was finalised in 2020 but needs to fulfil technical conditions (including market demand) to become operational.
Progress has been slower with the power grid connection with the Romanian network, which is still at the stage of feasibility assessment.

Overall, cooperation with both international donors (World Bank, EBRD) and the neighbouring countries of Romania and Ukraine is an essential prerequisite for improving the heavily dependent Moldovan energy system. The pipeline with Romania is finalised, but not yet fully operational. At the same time, the Ukrainian energy system has stored Russian-originated gas, which Moldova receives via the Trans-Balkan pipeline and the TurkishStream, since 2020.

The Secretariat of the Energy Community constitutes a robust institutional authority and an expert powerhouse for moving forward the domestic legal approximation and the policy dialogue, with the European financial support of EU4Energy. The Secretariat’s qualities were instrumental in progressing the implementation of the Third Energy Package and for sealing the Ukraine-Moldovan technical arrangements that guaranteed gas supplies in 2020.

**Future developments sought by Moldova.** In its contribution to the EaP structured consultation, Moldova expressed its interest in:

- cooperating with the EU in the process of establishing the European Energy Union;
- aligning the energy policy to European standards over the coming years and implementing concrete energy security projects;
- putting the Iași–Ungheni gas interconnector with Romania into operation at full capacity (1.5 bcm/year);
- maximising the Trans-Balkan gas pipeline in reverse flow to fulfil national security needs;
- increasing the national and regional electricity security of supply through an increase of the asynchronous interconnection with Romania to 600 MW (the Isaccea-Vulcănești-Chișinău project), as well as by implementing synchronous interconnection of Ukrainian and Moldovan

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networks with ENTSO-E Continental Europe network, possibly in the next five to seven years;
- increasing the domestic electricity production and the sustainability of the energy sector by raising electricity generation from renewable energy sources;
- seeking means to reduce energy consumption through implementation of energy-efficiency measures and projects;
- being engaged in the energy security stress tests on a regular basis.

Energy at a glance

The Moldovan market for gas and electricity has long been dominated by Gazprom, directly for gas and indirectly through a gas-fired power plant in Transnistria, which supplies most of Moldova’s electricity. However, the Romanian state operator has entered the gas market and can open up some competition.

The legal provisions of the Agreement and DCFTA in the energy sphere largely consist of commitments made under Moldova’s accession to the Energy Community in 2010, including the Third Energy Package, which was largely implemented by the end of 2017 at the level of primary legislation. The current challenge consists of adopting and implementing the remaining secondary legislation by ANRE and other specialised bodies.

The active cooperation with the Energy Community and the conditionality introduced under macro-financial assistance (MFA) from the IMF and EU to Moldova creates incentives for speeding up the implementation of reforms. Cooperation with Romania and Ukraine is both foreseen in national legislation and encouraged by financial institutions and energy-related regional organisations.

The EU’s energy acquis has been substantially revised, which invites an updating of the relevant annex in the Agreement.
19. DIGITAL SECTOR

This chapter deals with a family of chapters and subchapters on related topics in the Association Agreement, notably electronic communications and postal services, information society and audiovisual policy. These sectors have witnessed the fastest rate of technological change and development of any sector of the economy, which means that the stock of EU laws and regulations in this field, as represented in the Agreement, is also subject to fast change. In this chapter we review the provisions of the Agreement, discuss implementation and the recent amendments to the commitments annexed to the Agreement, and summarise the new EU legislation and policies in the digital domain.

Provisions of the Agreement

Electronic communications. There is a set of complex provisions in Articles 231 to 240 of the Agreement regarding electronic communications. They establish the ground rules for a competitive and well-governed sector, and address the regulatory authority, principles for authorisation of licences to service providers, the rights of access to interconnections with other service providers, and the principles for governing the allocation of scarce resources, such as radio frequencies. Annex XXVIII-B lists the existing EU legislation with which Moldova is expected to comply ‘gradually’, that is, within one to three years. It includes a selection of key directives adopted in 2002 and amended in 2009:
- Framework Directive 2002/21/EC (as amended by Directive 2009/140/EC) on electronic communication networks, which defines the products covered and the need for independent administrative capacity of the national regulator
- Directive 2002/20/EC (also as amended by Directive 2009/140/EC) on the authorisation of licences for operators in the sector
- Directive 2002/19/EC (also as amended by Directive 2009/140/EC) on the requirements that operators with significant market power must assure open access to network facilities and non-discriminating interconnection charges
- Universal Service Directive 2002/22/EC (as amended by Directive 2009/136/EC), which requires respect for the interests and rights of users, such as ‘number portability’ between operators.

Postal and courier services. The regulatory rules aim to prevent anticompetitive practices in this sector, regulating licensing provisions for universal service providers and ensuring the independence of the regulatory body. Several directives are specified in Annex XXVIII-C on regulation of the internal market for postal services. Courier services in the EU are increasingly subject to criticism for their high costs, and action in this regard is planned.

Information society. The objective here is to ensure the widespread availability of information and communication technologies (ICT), with quality services and affordable prices. The text emphasises the “exchange of information on best practices”. Moldova is expected to approximate the e-Commerce Directive (2000/31/EC) within three years and a framework law on electronic signatures (Directive 1999/93/EC) within one year.

Audiovisual services. Ground rules for the regulation of television broadcasting are laid down in the Audiovisual Media Services Directives (2007/65/EC and 2010/13/EU), to be adopted within two years after the entry into force of the Agreement.
New EU legislation and policies

Digital single market. The Digital Single Market (DSM) launched by the European Commission in 2015 has led to several significant modifications of the EU legislation in electronic communications, information society, data protection and audiovisual markets. These changes made most of the commitments outlined in Annex XXVIII-B to the Agreement outdated. To update Moldova’s obligations in line with these new EU rules, the EU-Moldova Association Committee released the Decision 1/2019, which amended Annex XXVIII-B on the rules applicable to telecommunication services.

Telecommunication services. The Decision 1/2019 amends Annex XXVIII-B with the new EU rules on network neutrality and users’ rights related to electronic communications networks and services (Regulation (EU) 2015/2120 amending Directive 2002/22/EC), the reuse of public sector information (Directive 2013/37/EU amending Directive 2003/98/EC) and the electronic identification and trust services (eIDAS) (Regulation (EU) No 910/2014 repealing Directive 1999/93/EC). Having these new legal acts in place will enable Moldovan companies to participate more effectively in online tenders, including for EU funding grants for which they are eligible. They also tackle high rates of piracy and the use of illegal software by governments, which is an important concern for Moldova. Updates on radio spectrum include a number of implementing decisions and directives from 2005 to 2019 that implement rules on regulatory frameworks for radio spectrum policy. These new laws establish rules on network neutrality and update universal service and users’ rights related to electronic communications networks and services.

The Decision, however, does not cover the most recent Directive on the new Electronic Communications Code. The Code, as the first update of European telecom rules since 2009, was adopted in 2018 and is supposed to be transposed into the national

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2 The Decision also includes one implementing regulation and three implementing decisions that implement the Regulation (EU) No 910/2014.
3 Implementing Decision 676/2002/EC on a regulatory framework for radio spectrum policy.
legislation of member states by 21 December 2020. It introduces new rules in the broad domain of spectrum use, mobile connectivity and 5G, and strengthens the security and protection of consumers.

**Audiovisual services.** A major change in the EU legislation on audiovisual policy is a new audiovisual media services directive (AVMSD) (Directive (EU) 2018/1808), which strengthens the independence of national regulatory authorities and guarantees free audiovisual media transmission throughout the EU. The new directive also extends audiovisual rules to video-sharing platforms by imposing certain obligations on commercial communications. Moreover, AVSMD promotes local European content by obliging audiovisual media service providers to have at least a 30% share of European works in their catalogues.5,6

For the time being there are no updates planned in the annex on audiovisual services.

**Personal data protection.** The new regulation on general data protection, the GDPR, is one of the major innovations in the EU’s legislation developed within the DSM. The GDPR replaces Directive 95/46/EC included in the annex to the chapter on ‘justice, freedom and security’. In brief, the GDPR (Regulation (EU) 2016/679) strengthens the rights of natural persons and raises the responsibilities of companies and organisations with regard to the processing and movement of personal data. In effect, it gives rights to individuals to access the information on their data and the way they are processed.7 The regulation also reduces costs and barriers to the free flow of personal data within the single market. While the new set of rules applies to individuals and businesses from the EU, it also affects non-EU companies. This means that companies based outside the EU must abide by similar rules when providing goods and services or studying behaviour of individuals within the EU.

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5 For more detailed information see https://eur-lex.europa.eu/browse/summaries.html.
6 As defined by Article (1) of the Directive, “European works” stand for the works originating in the EU member states or in the European third states that are party to the European Convention on Transfrontier Television of the Council of Europe and fulfil three conditions, ensuring that the works are created and supervised with authors and workers residing in these countries.
7 In case data processing results in a high risk for the rights and freedoms of individuals.
For the non-EU countries, the GDPR includes a special provision: Article 45 on ‘adequacy’. Adequacy can be fulfilled when a non-EU country ensures an adequate level of protection of personal data by its domestic law or its international commitments. This enables free flow of personal data from the EU to the non-EU state without further safeguards. So far, 13 countries have received recognition of adequacy from the European Commission, including Canada (commercial organisations), Japan, Jersey, New Zealand, Switzerland and the US (limited to the Privacy Shield framework).\(^8\)\(^9\)

Apart from the GDPR, the new EU data protection package includes directives on the processing and free movement of personal data of individuals by police and criminal justice authorities, the so-called Police Directive (Directive (EU) 2016/680) and use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime (Directive (EU) 2016/681).\(^10\) The new Police Directive repeals the Council Framework Decision mentioned in the Annex to the chapter on justice, freedom and security.

The PNR Directive falls within the scope of the chapter on political dialogue and has articles on international cooperation in the fight against terrorism. However, as there are no obligations annexed to this chapter, the Directive could be listed in the future action plans.

**Non-personal data.** The EU has adopted a new regulation on the free flow of non-personal data within the single market (Regulation (EU) 2018/1807). The regulation allows processing and storage of non-personal data freely without restrictions on localisation. Another update in EU legislation on data protection is Directive (EU) 2016/943\(^11\) on trade secrets. This Directive sets out rules on protection against the unlawful acquisition, use and disclosure of trade secrets, without undermining fundamental rights and freedoms (e.g. freedom of expression, information media pluralism, etc).\(^12\) These legal acts go beyond the provisions of the

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\(^8\) See https://bit.ly/3hCtvYh.

\(^9\) See Implementing Decision (EU) No 2016/1250.

\(^10\) For more detailed information see https://bit.ly/3fBCoOY.


\(^12\) For more detailed information see https://eur-lex.europa.eu/browsesummaries.html.
EU-Moldova Association Agreement, as the Agreement does not lay down commitments in terms of the free flow of non-personal data and trade secrets, and therefore they cannot be incorporated by updating annexes. Instead, these legal acts could be added to future action plans.

**EU4Digital.** Specific cooperation between the EU and Moldova on the DSM already took place in the context of the Eastern Partnership (EaP). For example, the second EaP Ministerial meeting on Digital Economy, held in Tallinn on 5 October 2017, discussed cooperation in this area, and during the EaP Summit in November 2017, the participants agreed to cooperate in the area of harmonisation of digital markets, in order to extend the benefits of the DSM to the partner countries.

In 2019 the EU launched its largest support programme in the digital sector in the EaP – EU4Digital. With a budget of €11 million, EU4Digital aims to support necessary legislative and regulatory frameworks for the development of the digital economy and society in the EaP region. In this context, cooperation will focus on strengthening the independence of national telecom regulators, harmonising spectrum allocation and roaming pricing, development of broadband, digital innovation and interoperable e-health services, improving digital skills, piloting cross-border e-signatures and promoting electronic trade and digital transport corridors.

Promoting the digital transformation is also among the top priority areas in the EU’s March 2020 Communication on “Eastern Partnership policy beyond 2020”.13

**Implementation perspectives**

*The growing digital sector.* The ICT sector plays an important role in Moldova’s economy and overall state governance. In 2019, the contribution of ICT to the country’s GDP was 7% (MDL 13 billion), while monthly salaries in the IT sector are many times higher than the average. Export of IT services increased by about 70% between 2014 and 2019, reaching around €190 million. There is a growing use of mobile telephony, from 4.6 billion minutes in 2011 to 6.1 billion minutes in 2018, compensating for the declining interest for fixed

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telephony, which reduced from 2.7 billion minutes to 1.3 billion minutes over the same period. The e-Government Agency’s 2019 poll\textsuperscript{14} shows that 86% of citizens are using the internet at least once per day: 90% to access social media, 89% to use chat services, 63% to make voice calls, and 59% to use email.

Selected data presented in Table 19.1 shows Moldova’s IT connectivity to be ahead of Ukraine and Georgia, and comparable to neighbouring Romania.

\textit{Table 19.1 Aspects of ICT development in Moldova, Georgia, Ukraine and Romania}

<table>
<thead>
<tr>
<th></th>
<th>Fixed telephone subscriptions per 100 inhabitants</th>
<th>Mobile cellular subscriptions per 100 inhabitants</th>
<th>Share of households with a computer (%)</th>
<th>Individuals using internet (% of population)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moldova</td>
<td>34.3</td>
<td>27</td>
<td>111.0</td>
<td>88</td>
</tr>
<tr>
<td>Georgia</td>
<td>19.4</td>
<td>15</td>
<td>129.1</td>
<td>136</td>
</tr>
<tr>
<td>Ukraine</td>
<td>19.8</td>
<td>14</td>
<td>132.6</td>
<td>128</td>
</tr>
<tr>
<td>Romania</td>
<td>19.1</td>
<td>19</td>
<td>106.4</td>
<td>116</td>
</tr>
</tbody>
</table>

\textit{Source:} International Telecommunications Union, World Bank.

The government reform initiated in 2009 resulted in the absorption of the Ministry of Information Technology and Communication into the expanded Ministry of Economy and Infrastructure, in charge of elaborating and coordinating ICT policies. The e-Government Centre (established in August 2010 and renamed the e-Government Agency (EGA) in 2018) is responsible for strategic planning, management and implementation of ICT, acting on behalf of the State Chancellery. The National Regulatory Agency for Electronic Communications and Information Technology of the Republic of Moldova (ANRCETI) is the regulator in this field.

\footnote{\textsuperscript{14} National Annual Survey 2019 “Perception, Assimilation and Support of e-Government and Modernization of Public Services by the citizens of the Republic of Moldova”, e-Government Agency.}
The state retains full ownership of the incumbent postal services operator Posta Moldovei, the incumbent broadcasting operator Radiocomunicații, and the incumbent fixed-telephony operator Moldtelecom, which is also active on the mobile telephony segment through its subsidiary Unité, which provides 4G services. These state-owned companies have quite an extensive coverage of the market, as follows: fixed telephony, 94%; fixed-line broadband, 64%; TV and radio broadcasting, 25.6%; and postal services, 100%. The most liberalised sector remains mobile telephony, with only 3.6% of the market belonging to the state-owned entity.

Although on the whole the ICT market is subject to fair competition, the state-owned Moldtelecom has a monopoly in fixed telephony and asymmetric digital subscriber line (ADSL), internet services and the internet connection technologies (cable, fibre to the building (FTTB), dial-up, Wi-Fi and mobile internet) are provided by both private companies and Moldtelecom. The Competition Council has investigated the dominant position of Moldtelecom on several occasions (dumping prices for connection to fixed internet, discrimination on price setting for fixed telephony, hindering the liberalisation of the international call termination service) but concluded that the company’s monopoly fits within the 2012 competition law.

The dominant provider of internet services in the Transnistrian region is Interdnestrcom (IDC), with no services delivered there by the Moldovan providers. On 25 November 2017, the Moldovan authorities and the administration of the Transnistrian region signed a protocol on telecommunications. It aimed to interconnect the fixed phone, mobile and internet connections across the two borders. However, this initiative did not materialise. In October 2019, the private companies Orange and Moldcell opposed the intention of the government and ANRCETI to issue a licence to IDC to operate in the entire territory of country. The political negotiations touched on this issue in August 2020, but without success.

Moldova started to implement e-transformation policies in 2011, with a view to using ICT to improve public sector governance. This initiative aims to digitalise paper-based documentation (e.g. on civil status), paperless government, an e-procurement system and a
management platform for delivering the results produced by sectoral services (MDelivery).

In 2011, Moldova joined the Open Government Partnership (OGP), a multilateral initiative of governments and civil society in 69 countries supporting the principles of promoting transparency, empowering the public, ensuring accountability, and embracing technology and innovation. Between 2011–2021, Moldova adopted four OGP Action Plans. The priorities of the latest Action Plan for 2018–2020, approved in November 2018, include: more access to information about the government’s decision; more participative decision-making processes via improved dialogue with civil society; increased accountability of the public administration; and modernised public services. Important progress has been reported in opening the government datasets. In April 2011, the ‘open data’ platform was launched.\(^\text{15}\) The public can freely access 1,130 sets of data, published by about 50 public authorities, or more than 53%. Over a million datasets had been downloaded by December 2015.\(^\text{16}\) According to the Global Open Data Index of 2015, Moldova holds an impressive 22\(^\text{nd}\) place out of 122 countries, ahead of Georgia (47\(^\text{th}\)) and Ukraine (54\(^\text{th}\)).\(^\text{17}\)

The development of online public services was initiated thanks to the Moldova Governance e-Transformation (GeT) project that was implemented by the EGA between 2010–16 with a credit from the World Bank (about $19 million).\(^\text{18}\) Furthermore, the Bank finances the project “Modernization of Government Services” ($22.43 million), which aims to re-engineer 21 sets of already existing services, and digitise 15 new ones, between 2017 and 2023.

The authorities are continuing to take action to digitalise public services, with significant progress on issues such as e-licensing, e-reporting, mobile signatures and online payment for public services. The number of electronic services is steadily growing, with 179 services available on a public services portal

\(^{15}\) More specifically, see the platform at www.date.gov.md.

\(^{16}\) Derived from the Barometer of online services assimilation through the e-Transformation Agenda, e-Government Centre of Moldova, December 2015.

\(^{17}\) See the Global Open Data Index, 2015, http://index.okfn.org/place/.

(www.servicii.gov.md) in 2020, compared with 112 services in 2018. The authorities are using electronic public services to fight corruption, diminish contacts with public servants and reduce the costs of public service delivery. Paying for public services became easier when the government implemented its electronic payment system. The same applies to issuing criminal records, paying police fines, apostils, obtaining licences for economic activities, electronic signatures, and e-visas, etc. (from 33 services in March 2018 up to 75 in August 2020). Moreover, the public can access and comment on draft laws and governmental decisions before their approval using a participation portal (www.particip.gov.md).

However, the population seems to be less receptive to the diversification of digital services. EGA’s 2019 poll illustrates that only 15% of citizens are accessing the internet to solicit digital public services, compared with 11% in 2016. Low understanding of the e-government reform (37%) and the benefits of e-services (27%) keeps public reluctance at significant levels.

In line with the Digital Moldova 2020 strategy, the education system has increased its focus on IT with the adoption of the agenda on e-transformation by the authorities. In September 2014, the authorities launched a master’s study programme on ‘Innovation Management and Technological Transfer’, as part of the EU TEMPUS TecNet Technological Transfer Network. The study involves universities from Moldova and certain EU member states (Italy, Portugal and Slovakia). In 2015, the Ministry of Education, Culture and Research (MECR) approved the concept of upgrading the curriculum, standards of digital education and the methodology of evaluating the digital competence. Between 2018–19, the MECR implemented the school discipline of Digital Education for first and second grade pupils, with further expansion being planned for other grades. As of August 2020, all 24 higher education institutions include courses related to digital skills.

USAID and the Swedish International Development Agency funded a programme to establish the ICT Excellence Centre, Tekwill, in 2015, which was institutionalised in 2017. Designed as an inter-university platform for promoting innovation and entrepreneurship, Tekwill turned into a platform to boost IT

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19 The electronic payment system is Mpay (www. mpay.gov.md).
entrepreneurship and knowledge sharing. Similarly, a branch of this centre will be operational at the University in Bălți (the country’s second biggest city). Around 200 of the teachers received digital qualifications with the support of South Korea (2015-2019). Since 2019, the Technical University of Moldova has conducted training in the cyber field. In December 2017, the Moldova IT Park\(^{20}\) was established, allowing favourable fiscal conditions (7% single tax). The Park has attracted about 650 residents as of August 2020. Software piracy, however, is a major problem for the digital sector, and is widespread among Moldovan consumers – the country being ranked 102\(^{nd}\) out of 139 countries.\(^{21}\) This phenomenon affects the production of local software as well. The limited competitiveness of local software products stemming from the focus on IT goods with low added value is another issue. It reflects a lack of interest in developing finished and more sophisticated products.

**Approximating EU legislation**


Some aspects of Framework Directive 2002/21/EC were transposed into Law No 28 of 10 March 2016\(^{22}\) concerning shared utilisation of public networks of electronic communication and provisions to develop them. Any type of legal restriction applied by the public authorities to limit access to property or physical

\(^{20}\) See http://moldovaitpark.md/.


infrastructure related to electronic communications is prohibited, except in the case of emergencies. Furthermore, it ensures that the construction and rehabilitation of urban projects comprise special infrastructure for electronic communications. These provisions aim to strengthen the information society by enhancing the independence and administrative capacities of the national regulator and increasing personal data protection. The ANRCETI is responsible for drafting an action plan for 2016 to implement this legislation.

**Updated commitments.** The new EU laws listed in Decision 1/2019 (October) that amends Annex XXVIII-B incorporates 36 legal acts (see section on new EU legislation and policies above). As of August 2020, the legislative procedures concerning them have not started.

As for the Regulation on eIDAS, Moldova has already taken steps to approximate this new piece of legislation in the framework of EU4Digital developed for the EaP. In 2017–19, draft bills have been prepared to amend the 2014 Law on electronic signatures.

**Postal and courier services.** According to the National Action Plan for implementation of the Agreement for 2017-2019, the Directive 97/67/EC on common rules for developing the internal market of Community postal services and improving the quality of service was to be transposed into Moldovan legislation by mid-2019. The new Law on Postal Communication (No 36 of 17 March 2016) amended the 1995 law. The universal service is provided by the state enterprise, Poșta Moldovei. The law also contains provisions defining the quality standards (on regularity and reliability). It ensures the gradual liberalisation of the postal services market. Yet the state will preserve its monopoly on postal services for items weighing up to 350 grams. The fees for public postal services are based on the methodology approved by the ANRCETI. There are two more directives that are not yet adopted, and listed in Annex XXVIII-C, namely Directive 2008/6/EC on an internal market for Community postal services and Directive 2002/39/EC on the further opening of postal services to competition. The Agreement provides a timetable of five and seven years respectively for their transposition.

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23 Annex 4, Action Document for Support to the implementation of EU4Digital initiative in the Eastern Partnership Region.
**Information society.** The authorities are continuing their efforts to implement Digital Moldova 2020, in particular the actions to improve connectivity and access to IT. In this regard, the draft law on access to property and associated infrastructure for the shared use of public networks of electronic communication is to be defined and adopted.

The National Programme on Universal Service, transposing the Universal Service Directive 2002/22/EC, is being elaborated and is scheduled to be adopted by the middle of 2019. Its objectives are to provide consumers with access to good quality electronic communications at affordable prices. The Single National Service for emergency was launched in March 2018 and it attends around 9,000 calls annually, of which 40% are emergency ones. Meanwhile, the digitalisation of television is taking place through a programme on the transition from analogue terrestrial television to digital terrestrial as approved by the government decision of 22 April 2015. The Coordinating Council of the Audiovisual completed the distribution of slots (15 TV channels) for the digital terrestrial networks within the Multiplex A between 2018 and 2020. Consequently, the next Multiplex (B) can be put into operation. The two multiplexes cover up to 97% of national territory and 96% of population. It is unclear whether this service covers Transnistria, where conventional TV is still strongly rooted.

**Audiovisual services.** The authorities initiated the transposition of the AVMSD (2010/13/EU) by amending the Audiovisual Code of 27 July 2006. The Coordinating Council of the Audiovisual submitted a request to join the European Audiovisual Observatory, but it was cancelled because of the budget austerity measures applied in 2015. In 2017, within a project financed by the EU and the Council of Europe, a working group was set up to draft a new audiovisual code and the concept for media sector development. In November 2018, the new code transposing Directive 2010/13 on audiovisual media services was adopted, introducing new concepts such as terrestrial digital television, digital multiplex, and digital inclusion. This regulates the transparency of the ownership and aims to ensure informational security.
Personal data protection. Although for the time being the commitments under the Agreement do not include the GDPR, Moldova has already considered implementing similar rules in its legislation by adopting two laws, one on personal data protection and another on the National Centre for Personal Data Protection (NCPDP). In 2020, the NCPDP prepared an executive act that could implement the GDPR’s provisions concerning the ‘notification’ of the supervisory authority. This means that the notification would become obligatory for seven categories of personal data on the geographical localisation and information on the economic–financial situation. The most significant issue related to personal data concerns the limited access to data concerning the cases in the courts.

Future developments sought by Moldova. In its contribution to the EaP structured consultation, Moldova expressed its interest in the following:

- development of a common programme for financing and accelerating IT startups with EU support
- development of the EU Support Program for the digitalisation of SMEs
- collection of indicators and statistical information for the digital economy area with EU support
- harmonisation of the use of radio spectrum with the EU rules to ensure implementation of 5G
- signing and implementing the Regional Roaming Agreement among the EaP countries with the aim of concluding such an agreement with the EU in the medium/long run.

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**Digital sector at a glance**

This broad sector is growing rapidly and represents a vital part of the economic reform and modernisation process in Moldova.

A large IT infrastructure of online public services has been developed, but penetration at local administrative level and in the rural population remains slow.

Both authorities and business, with the support of international donors, are developing initiatives focused on digital education and innovation. The IT Park established in 2017 has about 650 residents, attracted by its favourable tax policy.

The new updating of the Agreement includes more than 35 EU legal acts to be transposed, with delays to be expected in adoption.
Cooperation in cyber is not covered in the Association Agreement, which has neither a chapter nor a single article on cybersecurity or cyber defence. Cybercrime is mentioned, but only once, in the chapter on ‘justice, freedom and security’, where it is listed as one of the six types of crime that parties agree to combat and prevent. This significant omission should not come as a surprise, as the EU only started developing its own cyber legislation after the Agreement negotiations with the three countries were finalised in 2013. As Moldova is in the process of crafting its legal framework on cyber, the EU cyber legislation could provide the country with very useful guidelines. To address this omission in the Agreement, this chapter briefly discusses the EU legal framework on cybersecurity and cyber defence and sets out how Moldova is progressing in this field.

EU legislation and policies

*Cybersecurity.* The EU harmonised criminal laws and penalties on attacks against information systems across member states in 2013, by adopting Directive 2013/40/EU. The Directive also tackles the use of ‘botnets’\(^1\) and promotes cooperation between law enforcement authorities. It took longer, however, for the first EU-

\(^1\) Malicious software designed to take remote control of a network of computers; for more details see https://bit.ly/3hG5Q97.
wide legislation on cybersecurity, on the security of network and information systems, to be launched.

This was the Network and Information Security (NIS) Directive (EU) 2016/1148), adopted in 2016. This directive requires EU member states to have a competent national NIS authority and a computer security incident response team (CSIRT). Moreover, businesses in the most vital sectors of the economy such as energy, transport, water, banking, financial market infrastructures, healthcare and digital infrastructure must comply with the security and notification requirements.

The NIS Directive was followed by the Cybersecurity Act in 2019 (Regulation (EU) 2019/881). The act enlarges the mandates of the EU Agency for Cybersecurity (ENISA), introduces EU-wide rules for cybersecurity certification, and gives ENISA more power to deal with cybersecurity across the EU. ENISA defines multiple schemes for different categories of ICT products, processes and services. Within the same cybersecurity reform package, the EU is planning to set up a Cybersecurity Industrial, Technology and Research Centre backed by a network of national coordination centres. These structures will promote development of the Digital Single Market and increase the EU’s autonomy in the area of cybersecurity.

**Cyber defence.** The EU tackles cyber threats through its fight against organised crime, the common foreign and security policy (CFSP), and its cyber defence policy framework (CDPF). To combat organised crime, the EU has listed cybercrime among the top ten priorities for 2018–21. It has declared that countering cyberattacks key to achieving the goals of the CFSP. Moreover, in May 2019, the Council adopted a Decision that imposes targeted restrictive measures to deter and respond to cyberattacks against the EU or its member states. This decision allows the EU, for the first time, to sanction persons or entities that are responsible for or associated with cyberattacks. The decision also applies to cyberattacks against

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2 J. H. Scheffer et al. (2018), “Strengthening the EU’s Cyber Defence Capabilities”, CEPS.
3 For more detailed information see https://eur-lex.europa.eu/browsesummaries.html.
non-EU states or international organisations if restrictive measures are necessary to achieve the objectives of the CFSP.

The CDPF was set up in 2014 and updated in 2018 with six key priorities, namely:

i) to develop cyber defence capabilities; ii) to protect the Common Security and Defence Policy (CSDP) communication and information networks employed in the EU; iii) to improve training, education and exercises; iv) research and technology; v) civil–military cooperation; and vi) international cooperation.

The main EU bodies on cybersecurity and cyber defence. To date, the EU has several bodies tackling cyber threats, although these bodies are rather fragmented and limited by small and understaffed teams. Yet, as cyber defence requires strong capacity building and coordination, these institutions are open to cooperation with one another. In 2018 the European Defence Agency (EDA), ENISA, Europol’s European Cybercrime Centre (EC3) and the Computer Emergency Response Team for the EU Institutions (CERT-EU) agreed to exchange expertise and best practices in the areas of cybersecurity, cyber defence and investigating cybercrime.

In 2016, the EU released the “Joint framework on countering hybrid threats – a European Union response”, which was later supported by the Joint EU/NATO Declaration and resulted in the setting up of the European Centre of Excellence for Countering Hybrid Threats (Hybrid CoE) in Helsinki in 2017. The Hybrid CoE is a hub for practitioners and experts with three main objectives: i) to be a platform for nations to come together to share best practices, build capability, test new ideas and exercise defence against hybrid threats; ii) to be a neutral facilitator between the EU and NATO through strategic discussions and exercises; iii) to lead the conversation on countering hybrid threats through research and sharing of best practices. The original members of the Hybrid CoE were Finland, Sweden, the UK, Latvia, Lithuania, Poland, France,

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6 J. H. Scheffer et al. (2018), “Strengthening the EU’s Cyber Defence Capabilities”, CEPS.
9 See https://bit.ly/3v5av8C.
Germany and the US. Sixteen new participating countries then expanded the network, including the EU countries, Canada, Montenegro and Turkey.\(^{10}\)

**Bilateral cooperation with Moldova.** Partially, the eventual cooperation on cyber matters can take place by extending the scope of the Agreement between the EU and Moldova “on the security procedures for exchanging and protecting of classified information” signed in 2017.\(^{11}\) This agreement is not yet in force because of the lengthy process of reaching agreement between the EU and Moldova on the standards for security procedures (“Implementing Arrangements between the EU and Moldova on security procedures for exchanging and protecting classified information”). Enforcement of the agreement will enable Moldova to cooperate more closely with the EU in the protection of classified information and its exchange. In the current version of the Agreement, cybersecurity policy is poorly covered.

**Cooperation within the Eastern Partnership (EaP).** On cyber matters, Moldova has so far been mostly engaged in regional cooperation within the EaP by pursuing an objective on ‘Stronger Security Cooperation’, defined among the 2020 Deliverables. The EU’s March 2020 Communication on “Eastern Partnership policy beyond 2020” also mentioned cyber resilience among the key priorities to safeguard the digital transformation.\(^{12}\) The new policy underscores the importance of full implementation of the Council of Europe’s Budapest Convention on Cybercrime (2001) and promotes adoption of the main pieces of the EU’s cyber legislation. These objectives will be implemented by the support of the newly launched EaP-wide programme - EU4Digital.

**EU4Digital.** In 2019 the EU launched its largest support programme within the EaP, EU4Digital, to promote digitalisation. With a budget of €11 million, EU4Digital supports the setting up of necessary legislative and regulatory frameworks for the development of the digital economy and society in the EaP region. Among other things, this includes actions to approximate the EU legal framework on cybersecurity, cybercrime and cyber resilience.

\(^{10}\) See https://bit.ly/33YjxbF.


Given the different level of readiness and interest of the EaP countries, the EU will apply a differentiated approach with individual countries and specifically engage with those that demonstrate better capacity to absorb the EU’s support and funds in the digital sector. This particularly applies to the Association Agreement states, including Moldova, which are more advanced than the rest of the EaP states in terms of the approximation of some pillars of the EU’s legislation on cyber.

**Implementation perspectives**

Approximation of the EU cyber legislation requires significant financial means and major capacity building, which Moldova can undertake gradually. Approximation would ensure that the same cyber offences are criminalised and penalised across Moldova and the EU, strengthen the legislative powers of the bodies responsible for the NIS and enhance cooperation between cybersecurity agencies in Moldova and the EU.

**Cybersecurity.** Approximation of the basic EU legal framework on cyber matters is already part of the Action on cyber resilience for the EaP within EU4Digital. The Action started in 2020 and has two components, cybersecurity and cybercrime. It includes mapping the critical information infrastructure in line with the NIS Directive, establishing CERTs and cooperating with such bodies within the EaP. The programme on cybercrime mainly focuses on developing legislative and policy frameworks and substantive criminal law in compliance with the Budapest Convention on Cyber Crime of 2001.

In line with the National Strategy “Digital Moldova 2030”, the Moldovan authorities have developed the Cybersecurity Programme 2016-20. Through the seven blocks of measures of the programme the Moldovan authorities commit to approximate with a range of EU _acquis_, such as: Directive 2009/140 on electronic communications networks and services; Directive 2011/93 on combating child sexual abuse, Regulation 910/2014 on electronic identification and trust services for electronic transactions; Directive 2008/114/EC on critical infrastructure; and Directive 2016/1148 on security of network and information systems (NIS).
The Ministry of Economy and Infrastructure initiated the legal harmonisation on security of the informational networks, with approximation of some elements of the EU legal and strategic framework on cybersecurity. These include the EU’s legislation on cybersecurity management standards and the ICT system’s accreditation audit, as outlined by the NIS Directive (Articles 10, 14, 15, 16, 17 and 19). The 2007 Moldovan legislation on electronic communications, revised in 2017, has endorsed the approach of Directive 2009/140 on integrity of networks and services. The Security and Information Service has initiated the work on transposing Regulation 910/2014 and the critical infrastructure directive, but the efforts are at the initial stage. Among other actions, a Government Decision of 2017 establishes mandatory cybersecurity requirements to be applied to the State Chancellery, the ministries and other central administrative authorities. It omits, however, the local public administrations and the state-owned companies.

The country aims to establish a national CERT within its 2016-20 cybersecurity programme and the NIS Strategy for 2019. Because of financial constraints, Moldova had transferred the CERT’s functions to the CERT-GOV-MD – the national early warning system against cyberattacks – created as a result of the Individual Action Plan Moldova-NATO in 2010. The Government-supervised Information Technology and Cyber Security Service represents this department, which has to ensure the maintenance of the state information systems and infrastructure. However, the primary tool of the CERT-GOV-MD had not been created by August 2020. Although CERT-GOV-MD is a member of the international (94 countries) forum of incident response and security teams (FIRSTs), it is not yet the member of the EU’s network of computer security incident response teams (CSIRTs). The new goal for establishing the national CERT is set for 2019-21. Meanwhile, the Ministry of Interior Affairs and the Ministry of Defense expressed interest in creating their institutional CERTs.

14 Established in 1990, the Forum brings together security and incident response teams from the government, commercial, and academic sectors from 94 countries across the world, https://www.first.org/about/.
The EU-Moldova 2017-19 Association Agenda indicates an interest in “cyber resilience and preparedness”. In this regard, the bilateral cooperation will include the development of a new post-2020 National Cyber Security Strategy and the protection of the critical infrastructure (Directive 2008/114/EC). Additionally, the two sides convened to implement the Organization for Security and Co-operation in Europe (OSCE) cyber confidence-building measures, comprising two sets of actions adopted in 2013 and 2016.\(^{15}\) These institute formalised interstate communication platforms and work to diminish the possibility of cyberattacks on critical infrastructure on which more than one country depends.

According to the Global Cybersecurity Index (GCI)\(^{16}\) Moldova is positioned between Georgia and Ukraine, in 31\(^{st}\) place in the region and 53\(^{rd}\) at global level. This ranking positively assesses Moldova’s cybersecurity and outlines that the country is effectively building its cyber capacity.

**Cybercrime.** Together with Georgia and Ukraine, Moldova is a member of the Committee of the Council of Europe responsible for the Budapest Convention on Cybercrime, the Cybercrime Convention and other international documents. Moldova ratified the Additional Protocol to the Council of Europe’s Convention on Cybercrime in December 2017. In 2019, the Ministry of Interior Affairs started the revision of an older draft bill, registered in the Parliament in 2016, which reflects the provision of the European Cybercrime Convention, the EU directives and other international documents. The new draft is not finalised. The main difficulty with the implementation of these conventions in Moldova lies in the lack of monitoring mechanisms.

Furthermore, as part of the 2017-19 Association Agenda, Moldova agreed to intensify cooperation with Europol’s C3. In parallel, the representatives of the national police’s Centre for Combating Cybercrime (CCC) participated in training sessions in 2017 within the Council of Europe’s project “The CyberCrime@EAP”. The CCC has developed capacities to examine


\(^{16}\) The Index is developed by the International Telecommunication Union (ITU) on the basis of legal, technical, organisational, capacity building and cooperation measures of the countries.
the informational systems and equipment for data collection. The General Prosecutor’s Office also incorporates a unit dealing with cybercrimes, which among other functions deals with the supervision of the Integrated Automated Information System “Criminal Investigation: E-File”, which should be updated daily with relevant data by the prosecutors and their staff. In terms of dealing with cyber incidents, Moldova experienced major large-scale attacks on government websites, the media, the Central Election Commission (CEC) and the observation missions during both rounds of the 2016 presidential elections. In 2016, the CEC established partnership with the e-Governance Agency. In 2018, the Parliament modified the legislation allowing the CEC to administer the Integrated Automated Information System “Elections”. Gradually, this component has been connected to other existing systems (M-Sign, “Fiscal Control”) via the governmental platform of interoperability, M-Connect. Nevertheless, the country is nowhere near to implementing electronic voting.

The overall issue concerning cybercrime is the Penal Code, which in various regards is unfit for the existing challenges and permits loopholes for the investigation and punishment of the domestic and transnational infringements.

**Cyber defence.** Two major documents define the country’s defence approach towards its cyber insecurities. The first, adopted in December 2017, constitutes the Concept of Informational Security. This acknowledges that informational security is indivisible from national security. The Concept outlines among its goals the following aspects: development of reaction capacities against hybrid threats; establishment of viable strategic communications; boosting the information infrastructure and informational and cyber resilience. The most significant threats are of an external nature, such as transnational cybercrimes, high exposure to external informational warfare and the informational undermining of the electoral processes. Other threats originate from insufficient digitalisation of the public administration. The Concept itself fails to highlight the key institution responsible for cyber defence.

The second document with paramount importance for cybersecurity is the Information Security Strategy of the Republic of Moldova for the years 2019–24, passed in November 2018, which
includes a detailed Action Plan. The Strategy is based on the earlier-described Concept. The Strategy attempts to map out the priorities and the responsible institutions for cyber resilience, media pluralism and institutional convergence. It consists of four blocks of actions to ensure the security of the informational-cyber space and improved interinstitutional coordination. The Strategy notes the creation of the “Coordinating Council for ensuring information security”, which would bring under one roof the entities that operate in the cyber or informational realm, at the national and local levels, without substituting or absorbing their functions. Developing the early warning capacities against hybrid threats is another important goal. To this end, the Strategy proposes the creation of analytical-informational unit within the Security and Information Service, as well as joining the Hybrid CoE and the NATO Strategic Communications Centre of Excellence (NATO StratCom COE). The deadlines set up in the Strategy’s Action Plan seem too optimistic.

Future developments sought by Moldova. In its contribution to the EaP structured consultation Moldova expressed its interest in:

- cooperation with the European Cybercrime Training and Education Group, ENISA, the European External Action Service (EEAS) and the European Commission cyber security teams
- having access to the EU training and/or certification of cybersecurity specialists
- sharing best practice with the EU on the functioning of the Rapid Alert System
- enhancing cooperation with the EU on strategic communication and combating disinformation.

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Cybersecurity and cyber defence at a glance

As the Association Agreement does not cover cooperation on cyber, Moldova so far has been mainly engaged in regional cooperation with the EU, developed within the Eastern Partnership.

Even though Moldova is not obliged to approximate the EU legislation on cyber, the country has already made progress in adopting some basic elements of the EU’s Network and Information Security (NIS) Directive. The country has also established agencies responsible for cybersecurity and cybercrime at the national level.

Moldova could benefit from participation in the EU’s capacity-building programmes and cooperation with the EU agencies responsible for cybersecurity, cybercrime and cyber defence, including cooperation with Europol and the common actions of the Organization for Security and Co-operation in Europe (OSCE) for cyber confidence-building measures.

The country has weak cyber capacities. But there is growing awareness of hybrid threats, as reflected in the national strategic and operational security-related documents. The legal provisions, human resources and the institutional organisation are not fully developed to cope properly with the present cyber risks.
21. **Consumer Protection**

EU legislation is intended to ensure a high and consistent level of protection of the health and safety of consumers by means of strict common safety rules and standards for products and services circulating within the internal market. Specific consumer protection legislation, the subject of this chapter, concerns broad principles and horizontal measures for enforcement. Most of the substantive conditions for the safety of individual foods, industrial products and services are defined in the sectoral legislation of the EU’s internal market, and are discussed in other chapters.

**Provisions of the Agreement**

The Agreement lays down a number of general commitments on consumer protection, notably that the parties “shall cooperate in order to ensure a high level of consumer protection and to achieve compatibility between their systems of consumer protection” (Art. 38). This requires, inter alia, exchanging information on consumer protection systems; providing expertise on legislative and technical capacity to enforce legislation, along with market surveillance systems; improving the information provided to consumers; and encouraging the development of independent consumer associations.

It also requires that Moldova approximate its legislation to that of the EU, as set out in Annex IV to the Agreement, while avoiding barriers to trade. This Annex includes a long list of EU
legislation related to product safety, marketing, contract law, unfair contract terms, doorstep selling, financial services, consumer credit, redress and consumer protection cooperation. Generally speaking, Moldova has committed to implementation timeframes of between two and four years.

Product safety is a key objective of consumer policy. Within two years, Moldova is expected to have transposed into its legal order the provisions of the main acts in this field, i.e. the General Product Safety Directive 2001/95/EC and Directive 87/357/EEC. Certain products whose composition, manufacture or use may pose a risk to consumers are subject to more specific provisions.


To protect consumers from unfair contract terms Directive 93/13/EEC has to be incorporated, as well as, inter alia, Directive 97/7/EC on the protection of consumers in respect of distance contracts. Other EU legal acts to be approximated concern doorstep selling, package holidays and consumer credit.

Developments in EU law and policy

Several important legislative developments have taken place over the past decade at EU level in the area of consumer protection that are relevant for the EU-Moldova Association Agreement.

In April 2018 the Commission adopted its “New Deal for Consumers” initiative, which aims to strengthen enforcement of EU consumer law in light of a growing risk of EU-wide infringements, and to modernise EU consumer protection rules in view of market developments. Following these proposals, the Directive on better enforcement and modernisation of EU consumer protection was adopted in November 2019. This Directive amended several directives included in Annex IV, such as the Unfair commercial Practices Directive 2005/29/EC, the Consumer Rights Directive 2011/83/EU, the Unfair Contract Terms Directive 93/13/EEC and the Price Indication Directive 98/6/EC. It was proposed together with a proposal on representative actions for the protection of the collective interests of consumers (which still needs to be approved by the Council and Parliament). This new Directive provides for,
inter alia, enhanced harmonisation of rules on penalties, a right to individual remedies for consumers when they are harmed by unfair commercial practices, more transparency for consumers in online marketplaces, and the protection of consumers in respect of ‘free’ digital services, namely digital services for which consumers do not pay money but provide personal data such as cloud storage, social media and email accounts.

In addition, to give better protection to consumers in the context of online shopping, the Commission issued a Notice in 2017 on the market surveillance of products sold online to help public authorities with their work.\footnote{See https://bit.ly/3frYzHv.} In the area of financial services, the European Commission is also preparing a proposal to modernise Directive 2002/65/EC on distance marketing of financial services (which protects consumers when they sign a contract with a retail financial services provider at a distance and which is also included in Annex XXXIX).

In 2017 the EU also replaced Regulation (EC) No 2006/2004 (listed in Annex IV) by Regulation (EU) 2017/2394 on cooperation between national authorities responsible for the enforcement of consumer protection laws. It aims to protect consumers against cross-border infringements to EU consumer law by modernising the cooperation of the relevant national authorities in the EU and EEA countries, among themselves and with the European Commission, for example by imposing requirements for the single liaison offices in each of the member states and by providing rules for mutual assistance. This Directive can provide a framework for cooperation with the three DCFTA countries as well.

Moldova and the EU are holding discussions at committee level to update Annex IV to take into account these developments, but a formal decision of the Association Council is not planned in the near future.

**Implementation perspectives**

*Developments in Moldova’s consumer protection.* Market surveillance and consumer protection is a complex policy field that advanced considerably when the consumer-related rules and...
Principles were established in Law No 105-XV of 13 March 2003. Significant institutional reorganisation took place when the Agency for Consumer Protection was established in 2012. The Agency took over from earlier institutional arrangements that had been initiated in 1992, soon after independence. In September 2017, amid the reform of governmental structures, the Agency was renamed the Agency for Consumer Protection and Market Surveillance (ACPMS). Its competences were extended with regard to supervision and monitoring, policy and methodological tools.

The ACPMS is the main body responsible for monitoring goods entering the market and services delivered to consumers, their compliance with national legislation, and the protection of the health and the safety of consumers. It is a public institution subordinated to the Ministry of Economy and Infrastructure (MEI).

Its competences are quite broad and include supervisory, monitoring/inspection, advisory and communication aspects, namely: i) organisation of market surveillance, covering all steps from production to selling, as well as delivery services; ii) oversight of the metrology measurements and equipment used by the producers; iii) monitoring the fulfilment of the conditions for trading activities; iv) efforts aimed at protecting consumers’ economic interests (about 2.9 million consumers\(^2\) and 30,000 trade enterprises);\(^3\) and v) communication and education of consumers about their rights.

The ACPMS develops partnerships with local consumers’ associations (NGOs) and international organisations. A list of 11 NGOs working in the field of consumer protection is presented on the web page of the Agency,\(^4\) although not all of these are active.\(^5\) In early 2018 one of these NGOs, the East-European Foundation, revealed mass irregularities regarding the composition of dairy production from some local producers and also in goods imported from Ukraine. Consequently, the ACPMS intensified the controls, issued various sanctions of about €600 (considered to be

\(^3\) See the report by the Agency on Consumer protection 2015, https://bit.ly/3yoKIKB.
insufficiently dissuasive), and destroyed the 3.5 tonnes of irregular vegetal oils.

The measures undertaken by the ACPMS to ensure the security of goods and services available on the market mainly relate to technical regulations, metrological requirements and the contractual obligations of service providers. No monitoring activities can be carried out by the ACPMS to check how agri-food producers implement the sanitary–hygienic and sanitary–veterinary rules, which is the responsibility of other government agencies (see Chapter 8). It is, however, entitled to sample the goods introduced onto the market, including industrial food products, in the accredited laboratories.

The ACPMS’s director and deputy director can apply sanctions to companies that violate consumer rights (related, e.g. to price transparency, quality and safety of goods or services). It can demand the remedy or replacement of goods, or restitution of the value of the goods or services, and can shut down improper economic activities. It can also request actions to remedy abuses and improper economic activities.

Before 2017, when the new Regulation of the Consumer Protection and Market Surveillance Agency was approved, the ACPMS also had territorial divisions, which were then abolished. This caused an overall decrease in the total number of consultations provided. Out of three territorial units (north, south and centre), only two were completely removed. The unit in the centre (specialising in food safety) was transferred to the National Food Safety Agency, where consumers were then directed. In 2016, the Coordinating Council for Consumer Protection and Market Surveillance was created as a consultative body for the coordinating authority in the field (the MEI). Its mission is to coordinate activities on consumer protection and market surveillance and it has representatives from civil society and sectoral professional associations among its members. The Council plays an important role in participating in the legislation...
harmonisation process. Apart from the 2003 Law, the rights of consumers are established in other organic and secondary legislation.

The strategic directions of the consumer protection domain are set out in the National Consumer Protection Strategy for 2013-2020. The main objectives pursued by the strategy are: i) diminishing the risks of transactions of dangerous goods and services and their access to the market; ii) empowering consumers’ decision-making through education and information; and iii) improving the procedures for claiming consumers’ rights (by extra/judiciary measures) and recovery of damages.

The strategy has annual action plans, on which yearly reports are drafted and made publicly available. The reports are presented by the ACPMS to the MEI, which, in turn, presents them to the Government. Point 3 of the strategy recommends that local public authorities draft territorial action plans of the implementation. However, certain municipalities have enacted measures to realise the strategy’s goals (Bălți municipality, which is the second largest city in Moldova, after Chișinău).

Although the respective strategy was approved before the entry into force of the AA/DCFTA, no amendment was made in the follow-up. The strategy appears in the list of legal acts that are not yet harmonised to the EU acquis, (the list is published on the MEI website). The reporting on the implementation has been problematic and the last available report dates from 2018. In total, 43 actions were planned to be implemented in 2018. The normative and legislative progress included the following: the 2018 Law on food safety; the General Procedure on non-compliant food products; the amended Law on waters that mirrors the Directive 91/271/EEC on urban waste-water treatment); the 2017 Law on

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11 No evidence of any territorial plans for strategy implementation was identified during research. The available reporting that was identified during research (the municipality of Bălți) is referenced in this report.
13 See https://mec.gov.md/ro/content/legislatia-nationala-nearmonizata.
general hygiene requirements on animal products; the 2019 General Program on Market Surveillance; and the 2018 Law transposing Regulation 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws. Another set of adopted laws concerns the non-food related area: the 2018 Laws concerning the non-banking crediting organisations in its surveillance, and the amendments to the 2007 Law on savings and loan associations.

In 2019, with the purpose of creating a functional institutional framework on consumer protection, the MEI developed a draft decision\(^{15}\) on approving the List of Authorities to ensure the application of the harmonised legislation in the field of consumer protection.

The same year, the ACPMS undertook 211 state controls, out of which 162 (77%) were planned controls and 49 (23%) unplanned. The controls were based on petitions. In 155 (73.5%) of the cases, a series of infringements to legislative and normative acts were uncovered. The institution published the list of the annual planned controls.\(^{16}\)

A total of 181 cases were taken to court by the ACPMS.\(^{17}\) The citizens won 60 of these cases, while 41 were lost and the other 80 cases were pending in court at the end of 2019. The penalties and fines applied constituted MDL 1,560,000 (approx. €79,000), from which MDL 1,184,000 (approx. €60,000) against legal entities. The total amount of transfers to the state budgets from the fines, at the end of 2019, amounted to MDL 215,925 (approx. €11,000).

**Implementation of the Agreement.** Overall, the Association Agreement envisages the implementation of 16 EU directives over the next four years. Some directives were implemented before the signature of the Agreement, notably directives on abusive provisions in contracts signed by consumers, on unfair business-to-consumer commercial practices in the internal market and on credit

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\(^{17}\) The internal procedures of the ACPMS foresee that when an infringement is found as a result of an inspection, it presents the case in the first instance court if the economic agent refuses to admit to the wrongdoing.
agreements for consumers. In 2020, the MEI reported that 14 EU legal acts are mirrored in the national legislation.\textsuperscript{18}

Overall, there are multiple problems hindering the effective implementation of consumer protection and market surveillance: a lack of institutional capacity, little use of risk assessment, inefficient communication and cooperation among the oversight authorities; insufficient proactive measures, mainly on the part of the ACPMS, poorly equipped laboratories to test the safety of food and industrial goods; and a largely passive approach of consumers in claiming their rights, given also the costs of judicial procedures for claiming consumer rights.

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**Consumer protection at a glance**

Framework policies covering consumer protection and market surveillance are in place. The authorities are shifting the emphasis from checks and inspections to consultations and education.

The Agency for Consumer Protection and Market Surveillance (ACPMS) is the key institution, with extensive competences that include market surveillance, monitoring procedures, the termination of improper economic activities, company sanctions and communication efforts. It accumulated more surveillance and policy drafting competences amid the 2017 government reform.

Annex IV needs to be updated to take into account the new body of EU consumer legislation, in particular the “New Deal for Consumers”.

The approximation process is smooth. But the actual implementation is held back by limited financial resources and institutional capacities.

Irregularities in the field are numerous and consumer rights are frequently neglected, while the sanctions against the producers are rather soft. Consumers still largely remain passive stakeholders.

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\textsuperscript{18} See https://bit.ly/3v5ByAG.
22. COMPANY LAW

Provisions of the Agreement

To further support Moldova’s transition to a fully functioning market economy and to create a stable environment for investment and trade, the Agreement has a brief chapter on company law, corporate governance, accounting and auditing.¹ There will be a regular dialogue on existing systems and developments, with Moldova undertaking to approximate a selection of EU laws and international standards included in Annex II.

Company law. In this area, Moldova aims to improve the protection of shareholders, creditors and other stakeholders by undertaking to approximate a list of EU company law directives, listed in Annex II (see Table 22.1). The Annex covers several areas of company law. Companies with limited liability are required to disclose basic information and documents relating to, for example, their instruments of constitution and statutes, annual accounts and other rules for the management of the company. This information has to be recorded in a file opened in a central register, commercial register or company register, made available in electronic format and published in a national gazette or by other means.

The annexed legislation also aims to protect shareholders and creditors of public limited liability companies (PLLCs) by fixing rules for creating and running companies and for increasing or

¹ See Title IV, chapter 3.
reducing their capital. It requires that the company statutes include certain information, such as the objectives of the company, the details of its share capital and various rules for managing the company. The listed directives set the minimum capital requirement for an EU PLC at €25,000. It also regulates the distribution of dividends and the issue and acquisition of shares.

In addition, Annex II includes several other directives to be implemented within two to four years, for example concerning the rules for the conduct of mergers and takeovers after the entry into force of the Agreement (Table 22.1).

Table 22.1 Overview of EU company law directives for approximation

<table>
<thead>
<tr>
<th>EU Directive</th>
<th>Substance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directive 78/855/EEC concerning mergers of PLLCs (replaced by Directive 2017/1132/EU)</td>
<td>Deals with mergers between PLLCs in a single EU country</td>
</tr>
<tr>
<td>Directive 82/891/EEC concerning the division of PLLCs (replaced by Directive 2017/1132/EU)</td>
<td>Deals with the division of PLLCs in a single EU country</td>
</tr>
<tr>
<td>Directive 89/666/EEC concerning disclosure requirements in respect of branches opened in a member state by certain types of companies governed by the laws of another state (replaced by Directive 2017/1132/EU)</td>
<td>Introduces disclosure requirements for foreign branches of companies</td>
</tr>
<tr>
<td>Directive 2009/102/EC on single-member PLLCs</td>
<td>Provides a framework for setting up a single-member company (in which all shares are held by a single shareholder)</td>
</tr>
<tr>
<td>Directive 2004/25/EC on takeover bids</td>
<td>Establishes minimum guidelines for the conduct of takeover bids involving the securities of companies, where all or some of those securities are admitted to trading on a regulated market</td>
</tr>
</tbody>
</table>
Establishes rules to help exercise shareholders’ rights at general meetings of companies that have their registered office in an EU country and are listed on an official stock exchange. This Directive was amended by Directive 2017/828 which facilitates the interaction between companies and their shareholders and adds transparency of institutional investors.

Source: EU Official Journal.

**Accounting and auditing.** Moldova has committed to approximate Directive 78/660/EEC on the annual accounts of certain types of companies and Directive 83/349/EEC on consolidated accounts. Moldova has also agreed to approximate Regulation (EC) 1606/2002 on the application of international accounting standards. This regulation requires EU companies to prepare their accounts in accordance with international accounting standards/international financial reporting standards. These standards are issued by the International Accounting Standards Board. Finally, Moldova has to implement Directive 2006/43/EC, which lays down the conditions for the approval and registration of individuals who carry out statutory audits, along with the rules on independence, objectivity and professional ethics applying to such individuals, and the framework for their public oversight. This Directive was amended in April 2014 by Directive 2014/56/EU strengthening the independence of statutory auditors and audit supervision and making the audit reports more informative.

**Corporate governance.** The EU and Moldova agreed to cooperate on further development of corporate governance policy in line with international standards (i.e. the OECD Principles on Corporate Governance), as well as gradual approximation of EU legislation listed in Annex II. This includes Commission Recommendation 2004/913/EC on fostering an appropriate regime for the remuneration of directors of listed companies and Recommendation 2005/162/EC on the role of non-executive or supervisory directors of listed companies and the committees of the
supervisory board. After the financial crisis, these two recommendations were completed by Recommendation 2009/385/EC. The texts on remuneration policy include guidelines on the balance between fixed and variable remuneration, the latter conditional on performance criteria. Termination payments (‘golden parachutes’) should also be subject to quantified limitations and should not be paid in the event of failure. Each listed company should publish a statement on its remuneration policy on these issues.

New EU law and policies. Since the negotiation and signature of the Association Agreement several important legislative developments have occurred that are relevant for the Agreement’s chapter on company law. For example, in 2017 the EU adopted Directive (EU) 2017/1132 relating to certain aspects of company law. This Directive codifies a series of previous directives on certain aspects of EU company law included in the Agreements (see Table 22.1). The Directive lays down measures in order to have equivalent safeguards required by EU countries for the protection of the interests of their shareholders and third parties; in respect of establishing PLLCs and maintaining and modifying their capital; disclosure requirements for public and private limited liability companies; and mergers and divisions of public limited liability. This Directive requires companies with limited liability to disclose basic information and documents relating to, for example, their instruments of constitution and statutes, annual accounts and other rules for the management of the company.

Annex II also includes Directive 2007/36/EC on the exercise of certain rights of shareholders in listed companies. This Directive was amended by Directive 2017/828, which facilitates the interaction between companies and their shareholders and adds transparency of institutional investors. In addition, Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market was amended in 2013 by Directive 2013/50/EU, which aims to reduce the administrative burden for SMEs.

In the area of accounting and auditing Moldova has undertaken to harmonise its legislation with Council Directive 78/660/EEC on the annual accounts of certain types of companies
and Council Directive 83/349/EEC on consolidated accounts. These two directives have been replaced by Directive 2013/34/EU, which simplifies and reduces the administrative burdens for firms and is intended to facilitate greater EU cross-border comparability of accounts. It also introduces mandatory requirements for disclosing payments by companies in the extractive and logging of primary forest industries to government agencies.

Other legislation in this area that was recently adopted in the EU are Directive 2019/1151 of 20 June 2019, which covers provisions on the use of digital tools and processes in company law, and Directive (EU) 2019/2121 of 27 November 2019, which lays down new rules on cross-border conversions and divisions and amends the rules on cross-border mergers. These directives enable and encourage companies to use digital tools in company law, while providing strong safeguards against fraud and to protect stakeholders.

The EU also adopted new legislation to address corporate governance issues. For example, the EU adopted Directive (EU) 2017/828, which aims to encourage more long-term engagement of shareholders and has adopted specific rules on corporate governance and remuneration that apply to banks and investment firms.\(^2\)

Moldova and the EU expressed interest for updating the annexes on company law, corporate governance, accounting and auditing.

**Implementation perspectives**

Moldova’s current legal framework for company law, corporate governance, auditing and accounting is weak and the implementation of the DCFTA requirements, as identified above, represents a significant challenge. This is illustrated by Moldova’s relatively low position in the World Bank Group’s Doing Business ranking, despite some improvements in recent years.\(^3\) The reporting

\(^2\) Rules on corporate governance and remuneration in banks and systemic investment firms can be found in the Capital Requirements Directive (Directive 2013/36/EU as amended by Directive 2019/878/EU) and the Capital Requirements Regulation (Regulation No 575/2013 as amended by Regulation No 2019/876).

\(^3\) The Republic of Moldova moved up in the Doing Business ranking from 52\(^{nd}\) place in the 2016 edition to 44\(^{th}\) place in the 2018 edition, but moved down to 48\(^{th}\) place in 2019.
for 2020 emphasises lingering problems in such domains as protecting minority investors, enforcing contracts and resolving insolvency. Moldova made efforts to reduce the number of procedures, time and costs of establishing start-ups and operating a business. Thus, the time for state registration of a legal entity reduced to around 24 hours in 2020, down from four days in 2017, while the fees stayed almost unchanged at around MDL 6,000 (€300). However, different problems arise at a later stage. The process of obtaining the necessary permissive acts such as permits, authorisations and licences becomes more time consuming and bureaucratic, which burdens the business.

The need to modernise Moldova’s legal framework in this area became dramatically clear when a major bank fraud was revealed in late 2014, as detailed in Chapter 15. Several factors made this possible, including poor administration of the three defrauded banks, obscure changes in the ownership structure of the banks, and violation of the basic principles of corporate governance. The magnitude of the scandal has attracted the attention of many internal stakeholders, but also international partners of Moldova. Because of the systemic importance of the banking sector, improving the corporate governance of banks has been a priority since 2015. Thus, significant steps have been made with the aligning of financial and banking national legislation to the Basel III standards, but the pace of the fraud investigation is still slow. The prospects for completing the investigations are not good, nor for recovering the stolen money.

Company law and corporate governance. An important development related to company law is the approval in January 2016 of the Corporate Governance Code by the National Commission for Financial Markets. While the previous Corporate

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5 Losses from fraudulent loans accounted for 12% of GDP, while losses from fraudulent loans and future interest accounted for 16% of GDP, according to the “Final Report” prepared by Kroll for the National Bank of Moldova, London (http://candu.md/files/doc/Kroll_Project%20Tenor_Candu_02.04.15.pdf).
Governance Code had only recommendation status, the new Code has the status of a policy document, and therefore should be implemented by all joint stock companies. During 2018–19, several regulations concerning the capital market (including securities, collective investment institutions and private pension schemes) were adopted, ensuring the necessary background for more safety and further development of the sector. Of most relevance was the adoption of the single Central Securities Depository (CSD) in May 2019, which is responsible for the registration, safekeeping and settlement of securities issued by Moldovan entities. The launch of the CSD is not only one of the key reforms of the financial market, but also a long-awaited action regarding the protection of shareholders’ rights. This creates a new supervisory and settlement mechanism that should ensure a high level of transparency, safety and efficiency in conducting operations with securities.

There were some efforts made to transpose the EU company law directives in the Association Agreement, but the initial timeline has proved to be too ambitious. Only two directives from the first National Action Plan for 2014–2016 were transposed in accordance with its timeline (see Table 22.2). The implementation of other directives was postponed for one or two years, and they were included in the new National Action Plan 2017-2019. The delay is caused mostly by the recent adoption by the EU of the Directive 2017/1132 (see above). Accordingly, this Directive has been transposed into the law on joint stock companies at the beginning of 2020.\(^8\) However, although adopted, certain provisions could not be implemented owing to lack of financial resources. This is the case with the Public Services Agency database where digitalisation has not yet taken place. Thus, submission and access to different documents continues to be inconsistent with the requirements of Arts 2 and 3 of Directive 2009/101/EC.

\(^8\) See https://www.legis.md/cautare/getResults?doc_id=121059&lang=ro.
### Table 22.2 Progress with implementation of EU company law directives

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<tr>
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<tbody>
<tr>
<td>Directive 89/666/EEC concerning disclosure requirements in respect of branches opened in a member state by certain types of companies governed by the laws of another state</td>
<td>Drafted by TIV 2015 Entrance into force in TIII 2016</td>
<td>Transposed by Law No 96 of 13.05.2016</td>
</tr>
<tr>
<td>Directive 2009/102/EC on single-member PLLCs</td>
<td>Drafted by TIV 2016 Entrance into force in TIII 2017</td>
<td>Entrance into force in TIV 2017 Unfinished by deadline</td>
</tr>
</tbody>
</table>
**Accounting and auditing.** New laws on accounting and auditing according to EU Directives (2013/34/EU and 2006/43/EU) were adopted in December 2017 but only entered into force after significant delays on 1 January 2019.

The new legislation classifies all economic operators into categories – micro, small, medium and large entities – depending on the size of assets, sales revenue, and the average number of employees. Depending on the category, the business representants will present simplified or complete financial statements annually. There are also some innovations related to the publication of individual financial statements, management reports and the auditor’s reports. These documents can be sent by email or uploaded to the public depository and published on the company’s website. The audit law aims to ensure the quality of the audit, especially of public interest entities (banks, insurance companies or state-owned enterprise). This is particularly important as the superficial financial evaluations of public interest entities over the years have led to excessive risks and losses to public finances.

**Outstanding challenges.** Overall, the reform of corporate governance is seen as highly important for advancing the modernisation of the Moldovan economy. While recent events in the banking sector have dramatically highlighted the costs of shortcomings in this area, the problems are not confined to this sector. The agenda for reform in line with EU standards is appreciated, and some advances are being made, but overall, the needed legislative measures are falling behind schedule. Nevertheless, simple transposition of EU legislation without strengthening oversight and integrity capacities of such key institutions as the National Bank, the National Commission of Capital Market and the Competition Council would prejudice its effectiveness.
Company law at a glance

The Association Agreement does not impose strict obligations on Moldova in the area of company law, corporate governance or accounting, but provides a framework of EU legislation that Moldova has undertaken to implement.

Recent developments point to significant problems in corporate governance and regulatory failure in Moldova, which have proved to be especially costly in the banking system. Despite satisfactory approximation in the financial sector, this does not in itself resolve the unresolved investigation into the 2014 banking fraud.

Reforms in line with EU legislation in the broad area of company law should improve Moldova’s business climate, creating a transparent environment for enterprises, with an appropriate level of protection of company shareholders and creditors. Currently, however, there are delays in drafting the required legislation, while the impact depends on the effectiveness of the regulatory bodies.
23. **AGRICULTURE**

Agriculture is a very important sector for the Moldovan economy, with good potential for increasing the quality and volumes of its production and exports to the EU. The country has undertaken ambitious commitments to align its farm policies with those of the EU.

**Provisions of the Agreement**

According to the Agreement, “the Parties shall cooperate to promote agricultural and rural policies, in particular through progressive convergence of policies and legislation”. It goes on to list general objectives such as improving competitiveness, exchanging best practices, and promoting modern and sustainable agricultural production (Arts. 67-68).

More precisely, Art. 70 further specifies that Moldova will approximate its legislation to that of the EU through the list of regulations and directives set out in Annex VII, as summarised in Box 23.1. Each regulation has stipulated a timeframe for implementation, mostly of four or five years.

The implementation of the Association Agreement in the agricultural sector has been supported through several financial programmes, such as the Single Support Framework for Moldovan Agriculture, which had provided for €110–123 million by 2017, the European Neighbourhood Programme for Agriculture and Rural Development (ENPARD), and the Technical Assistance for DCFTA Implementation (TA DCFTA).
Box 23.1 Summary of EU agricultural policy laws referred to in the Agreement

Quality policy. Seven regulations set the rules for protecting geographical indications (GIs) and traditional specialities.

Organic farming. Three regulations set the rules for organic production and the labelling of organic products.

Marketing standards for plants and derived products, fruit and vegetables. There are a total of 24 regulations and directives, which mostly set out the technical standards for marketing specific commodities. For example, Regulation (EEC) 66/402 on the marketing of cereal seeds requires that products released on the market belong to officially certified varieties.

Marketing standards for live animals and animal products. As above, twelve regulations and directives primarily set technical standards for marketing specific commodities, as well as for the common organisation of markets. For instance, Regulation (EC) 543/2008 on marketing standards for poultry meat defines the characteristics of different cuts of meat and their names.

ENPARD actions are based on the Agreement ratified by Moldova in 2016. As a result, the EU agreed to offer €64 million to support agricultural policy, initially for the period 2015–18, although the activities started two years later. Of this, €54 million is in the form of budget support. Such support comes with conditions for the government to execute several programmes for investment: on modernising agriculture, agri-food and food chains and complying with EU food safety and quality requirements; on enhancing education as well as extending research and services to rural areas; on improving access to capital, input and output markets for farmers; and on rural development. In addition, €11 million is to be allocated to technical assistance projects, for example to promote civil society organisations and local authorities in implementing agricultural policies that favour gender equality and are oriented towards empowering women.

The TA DCFTA project was launched in September 2015, with the EU Delegation in Moldova and the Ministry of Economy assigned as implementing parties. Moldova’s political backdrop has meant EU financial support for this (and other) programmes being
delayed, in this case until 2018. (See Box 23.2 for the project description.)

**Box 23.2 ‘Technical Assistance for DCFTA Implementation’**

The total financial support in the TA DCFTA project amounts to €30 million and covers:

- measures to support DCFTA implementation in quality infrastructure (metrology, compliance assessment, testing and international cooperation)
- market surveillance measures (industrial and non-industrial products and services)
- consumer protection and food safety measures
- development and diversification of Moldovan exports to the EU and attracting investors.

The project also supported the Government of Moldova institutionally, in particular the Ministry of Economy and the subordinated institutions and agencies, in developing and implementing a broad range of public awareness programmes promoting DCFTA benefits for the business environment, local public administrations and the citizens of the Republic of Moldova.

*Source:* Adapted from the press release published on dcfta.md website, 23 October 2015, and the project description on www.eeas.europa.eu.

Disbursements under these programmes are conditioned upon implementing measures to upgrade the agriculture and food chain, as well as ensuring compliance with EU requirements on food safety and quality. These endeavours initiated some development of the harvesting, post-harvesting and storage infrastructure, new businesses, and increasing the competitiveness of domestic producers. The ENPARD and TA DCFTA programmes focused on improving the systemic elements of the quality infrastructure and market surveillance. One of the most important actions was the launching of ‘Support to the National Food Safety Agency of the Republic of Moldova’ EU Twinning Project at the beginning of 2017, amounting to €2 million. The project was completed in March 2019, and its achievements, which also included the drafting of the normative and legislative acts, were presented.

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The EU also funded the project Support to quality infrastructure in the context within a DCFTA in the Republic of Moldova³ (€3.6 million, 2017–20), with goals of aligning the country’s quality infrastructure and market surveillance to EU requirements and of enhancing aspects of business sector competitiveness among SMEs by improving their productivity, quality, business processes, and so on.

The European Investment Bank (EIB) has major investment initiatives in Moldova, including a €120 million project called the ‘Fruit Garden of Moldova’. This project consists of a global loan, to be executed through accredited banks, to support the entire horticultural value chain, for individual growers and for participants both up and downstream. It aims to ensure the long-term viability of a strategically important sector of the economy. The project addresses quality and financial issues and is structured for developing existing facilities together with building new capacities. By December 2017, only €6 million or 7% of the total had been disbursed. The main reason for the slow start lies in the high indebtedness of the local producers, their low level of capitalisation, and the high cost of the 50% co-financing clause applicable for participation in the project.⁴

Another EIB project, the Wine Sector Restructuring Programme (‘Filière du Vin’), has allocated €75 million for modernising the winery sector with implementation over the period 2012–19. This project focuses on the development of wines with protected designation of origin (DO) or geographical indication (GI), or both. More broadly, the objective is to restructure the wine industry, improve quality and diversify export markets. By December 2017, 66 Moldovan producers had benefited from loans,⁵ with the EIB approving €47.8 million so far, while the own contribution of the beneficiaries amounted to €55.5 million. The beneficiaries’ eligibility conditions include their own contribution of 50% of the investment and the pledging of assets. These conditions of access to funding are the most pressing challenge in the sector, because they limit the number of potential SME beneficiaries. In July 2019, two new project agreements were signed.

⁵ Principally, these are Asconi LLC, JSC Cricova, Vinaria Zimbreni and Vinaria din Vale.
with the UN Food and Agriculture Organization. The implementation of the projects is scheduled until 2021 and aims to increase agri-food exports, including the access to reliable statistical data for policymaking purposes. The projects were designed to respond to two critical needs identified during consultations with stakeholders: for qualitative statistical data mirroring international standards, and for a strategic and efficient approach to the promotion of locally produced agri-food.\(^6\)

**Developments in EU law and policy**

Numerous legislative acts included in Annex VII have been amended or replaced in the EU. Whereas the (new) EU legislation specifically related to the institutional, procedural and financial aspects of the EU’s Common Agricultural Policy (CAP) are less relevant for Moldova, the different trade-related legislative developments concerning quality control, marketing, organic farming, biodiversity and genetically modified crops (all covered in Annex VII) need to be taken into account by Moldova in the reform process of its agriculture sector. Moldova’s sanitary and phytosanitary (SPS) strategy already includes a significant amount of this new body of EU legislation (see Chapter 8 on SPS).

Other important new EU legislation in the area of agriculture that is relevant for Moldova’s approximation efforts includes, for example, Regulation 1151/2012 on quality schemes for agricultural products and foodstuffs. This Regulation, which amends or replaces several acts in Annex VII, seeks to enhance Europe’s quality policy for agricultural products by increasing the coherence of various quality schemes. It includes measures to support agricultural and processing activities as well as the farming systems associated with high-quality products, in line with EU rural development policy objectives (the Regulation does not apply to spirit drinks, aromatised wines or grapevine products). With regard to genetically modified organisms (GMOs), the EU adopted, in 2015, Directive 2015/412 on EU country flexibility in GMO cultivation. It allows individual countries to ban or restrict GMO cultivation under certain conditions (e.g. environmental or agricultural policy

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objectives), under the condition that the actions are reasoned, proportionate and non-discriminatory.

Moreover, in 2018 the European Commission presented legislative proposals on the CAP beyond 2020. These proposals aim to make the CAP more responsive to current and future challenges, such as climate change or generational renewal, while continuing to support European farmers for a sustainable and competitive agricultural sector. The key objectives of the future CAP are: to ensure a fair income to farmers; to increase competitiveness; climate change action; environmental care; to preserve landscapes and biodiversity; to support generational renewal; vibrant rural areas; and to protect food and health quality. Relevant elements of this for Moldova are the proposal’s elements related to environmental and climate change. For example, the Commission proposes preserving carbon-rich soils through protection of wetlands and peatlands; obligatory nutrient management tools to improve water quality, reduce ammonia and nitrous oxide levels; and crop rotation instead of crop diversification.

There is room for debate about whether Moldova, keen to advance its EU integration, has made too many commitments too quickly with regard to approximation to the EU’s acquis. Therefore, in addition to updating Annex VII, the EU and Moldova should also consider recalibrating the same Annex, focusing more on the most urgent priorities for Moldova’s agricultural reform process. Discussions have taken place at Committee level on this, but no formal updates are being prepared at this point.

**Developments in Moldovan agriculture and policies**

Moldova has important resources of arable land and remains a rural country, with 58% of the population living in rural areas. Agriculture is accordingly of great significance for the development of rural communities and for the country as a whole. While the share of agriculture in GDP fell drastically from 30% during the 1990s to 12% in 2011, and 10.1% in 2019, it remains the highest in south-eastern and Eastern Europe. The agricultural sector accounted for 22.9% of employment in 2019 (410,900 people), down from 52% in
The diminishing number of workers in agriculture results from both migration and the attractions of other sectors of the economy, especially the services sector. The added value per agricultural worker in Moldova ranks lower than other countries in the region, averaging about $6,884 per head in 2018, three times higher than in 2000, but 2.6 times lower than in Romania, or four times lower than in Bulgaria. 

The bulk of agricultural production (90%) is vegetal (cereals, grapes, vegetables and fruits) and of animal origin (pork, poultry and milk). Cereal production has increased rapidly, by almost 42% since 2000.

*Trade in agri-food goods.* The major trade partners for agri-food products are the EU and CIS countries. However, the share of trade with CIS countries has dropped in recent years, mainly because of Russia’s tariff and non-tariff barriers for wines and other agri-food products (especially since 2013) and because of general economic difficulties in Ukraine and Russia since 2014.

Four years after the elimination of tariff barriers, almost 70% of total Moldovan exports in 2018 went to the European market, thanks, in part at least, to the Association Agreement. The value of all goods exported to the EU in January–November 2018 amounted to $1,726 million (up by 19.9% more compared to January–November 2017). Its share amounted to 69.4% of total exports (65.7% in January–November 2017). In 2019, the goods exports to the EU (EU-28) amounted to $1.8 billion, with a share of 65.9% from the total exports.

The most significant growth in agri-food exports to the EU was registered for electric circuits, textile items, oil seeds, grains, fruits and wine. The biggest drop occurred in exports of fruit juices, as a result of Russia’s agri-food sanctions against EU countries that are normally importers of Moldovan agri-food goods (e.g. Poland).

The EU maintains extensive tariff rate quotas under the DCFTA (i.e. limited quantities for tariff-free access to the EU market). Full 100% use of tariff quotas for exporting fruit to the EU

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7 Derived from the National Bureau of Statistics, according to data from 2017.
during 2019 was recorded the following categories of agri-food products:

- table grapes – 10,000 tonnes
- fresh plums - 10,000 tonnes.

At the same time, the export quota of fresh apples was meagre: 2,300 tonnes out of 40,000 tonnes (6%). The 2019 export of cereals registered a considerable increase:

- wheat, flour and agglomerates in the form of pellets – 333,983 tonnes (445% of the total established quota of 75,000 tonnes)
- barley, flour and agglomerates in the form of pellets – 40,002 tonnes (57% of the total of 70,000 tonnes)
- maize, flour – 287,320 tonnes (221% of the total of 130,000 tonnes)
- processed cereals – 15,245 tonnes (610% of the total of 2,500 tonnes)
- sweetcorn – 1,366 tonnes (91% of the total of 1,500 tonnes).

Taking into account the early exhaustion for certain products, the revision of some allocated quantities to the European side has already been proposed (see Chapter 4). The quotas for agri-food of animal origin (pork, poultry, dairy products, shelled eggs, etc.) were completely unused because of the inability to meet the SPS requirements for exporting to the EU.

The total exports of products of vegetal origin increased by 10.6% ($180 million) in 2019, owing to deliveries of cereals, fruits and oil seeds.

Honey is one of the few agri-food goods of animal origin exported to the EU (6,500 tonnes in 2019 or €14 million for the past year). However, much of this honey is exported in bulk, to be processed later in the importing countries, which means that the final products are not labelled as ‘Moldovan’ on the EU market.

Wine is Moldova’s most successfully exported agri-food product. With around 150 wineries, Moldova is among the top ten countries in the world for wine production and exports, with millions of litres exported in 2019, (€43 million in 2019 compared with €28 million in 2015). However, since the introduction of Russian sanctions in 2006, wine exporters have faced difficulties,

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10 Derived from Comtrade.
with dramatic falls of exports to Russia. At the same time, this has led to a costly but ultimately healthy process of diversifying external markets. After Russia again applied sanctions to Moldovan wines in 2013, the EU fully opened its market. During 2014–15, Russia gradually began to reopen its market, but only for twenty-five wine producers in their politically preferred regions, namely the Gagauzian autonomy and Transnistria. Also, starting in January 2020, 205 selected Moldovan producers were allowed to export fruits and vegetables to Russia, though for only four tariff positions, for apples, pears, quinces and cherries. This was the result of the political engagement between President Dodon and the Russian authorities, rather than a systemic approach to fully restore non-discriminatory access to the Russian market.

Agri-food products showing rapid growth in exports include honey and walnuts. Exports of honey grew from 403 tonnes in 2000 to 2,696 tonnes in 2014, and 6,500 tonnes in 2016. Walnut cultures expanded from 4,000 hectares in 2014 to 25,000 hectares in 2019, with exports increasing from 187 tonnes in 2000 to 13,400 tonnes in 2014, and 17,000 tonnes in 2019. These two products and cereals face little or no export market constraints in the form of SPS requirements.

**Institutional framework and policies.** The leading institutions responsible for implementing agricultural and rural development policies are the Ministry of Agriculture, Regional Development and Environment (MARDE), the Ministry of Economy and Infrastructure, and a number of agencies. Institutional changes were underway in 2016–17 because of the implementation of the Public Administration Reform, and these continued in 2018, merging, inter alia, the previous Ministry of Agriculture and Food Industry with elements of the Ministry of Regional Development and Construction.

The strategic policy framework is represented by the National Strategy on Agriculture and Rural Development for 2014–20, approved in June 2014, together with an Action Plan adopted a year later. The major goals are increasing the competitiveness of the agri-

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11 Ibid.
12 Ibid.
13 Ibid.
Part III. Economic Cooperation

food sector, ensuring sustainable management of natural resources in agriculture and improving living standards in rural areas.\textsuperscript{14} Related policies concern food safety, services in rural areas and regional development, SMEs, energy, transport and logistics, IT and tourism. Particular attention is devoted to digitalising the agricultural sector, with an ‘e-agriculture’ strategy aiming to improve IT infrastructure for public services in this domain.

The strategy involves efforts to build capacity in the planning and assessing activities of the line ministries (the MARDE in particular). Improving the subsidy mechanisms administered by the Interventions and Agriculture Payments Agency is a key priority. The subsidy mechanism was unchanged between 2017–20 because of its five-year term. Since 2017, the share of subsidies offered for heavy machines was cut from 55\% to 33\%. In exchange, more money became available for investing in high value-added agricultural products (HVAAP), and in post-harvest infrastructure. Moreover, 5\% of allocations are devoted to innovative techniques in agriculture.

Numerous initiatives seek to strengthen agriculture-related professional qualifications, including viticulture educational programmes. For addressing climate change issues, the authorities drafted a programme for conservation in agriculture for 2015–20, which is not yet approved, with a view to informing farmers about proper soil conservation.

A similar goal is envisaged by a World Bank programme, while Sweden supports a project on agro-technical methods for organic crop production. The authorities have implemented the Rural Extension Services Network, which is designed to provide services in the regions through 35 providers. The development of the strategy was a prerequisite for the 2015–20 ENPARD programme referred to above.

There is a positive trend in the approximation of EU legislation, with the procedures for legal amendments initiated and/or finalised for the following EU regulations:

- In July 2016, a law entered into force that transposes into national legislation the provisions of the Regulation (EC)

\textsuperscript{14} See the National Strategy on Agriculture and Rural Development, 2014–20.
510/2006 on the protection of geographical indications (GIs) and designations of origin (DOs) for agricultural products and foodstuffs. The same law includes the harmonisation on Regulation (EC) 1216/2007 on agricultural products and foodstuffs guaranteed as traditional specialities.

• In June 2017, the draft law on organic agri-food production and the labelling of eco-products was approved by the Government and is currently pending approval in the Parliament. The law transposes Regulation (EC) 834/2007 on organic production and labelling of organic products and the implementing of Regulations (EC) 889/2008 and 1235/2008.15

• By September 2016 the provisions of Regulation (EC) 1295l/2008 on the importation of hops from third countries had been transposed into the local legislation.

• Transposition of the provisions of Regulation (EC) 1580/2007 on the fruit and vegetables sector has been long overdue, delayed by pressure from the producers’ groups. A draft law for the groups of agricultural producers was proposed by the MARDE in March 2018.


• In September 2017, consultations began on draft regulations to transpose into national legislation Regulation (EC) 273/2008 on quality evaluation of milk and milk products.

• In March 2017, the Parliament approved the Law on the classification of carcasses of bovine animals, swine and sheep, transposing the EU requirements for this subject.16

• Directive 66/401/EEC on the marketing of fodder plant seed has been transposed into the national legislation.

15 See https://bit.ly/3v5bK7V.

• One of the most important sectoral programmes for specific agricultural subsectors was the approval of the general crisis-management plan in the food and feed sector by Government Decision No. 680 of 11 July 2018.

• The Government approved in July 2018 the Regulation on the conditions and procedures for carrying out land improvement activities, protection, conservation and increasing soil fertility.

• The Law transposing Regulation 543/2011 concerning fresh and processed fruits and vegetables was transposed in 2018, one year later than agreed initially, through the adoption of Law No. 237 of 8 November 2018 on the control of compliance with quality requirements for fresh fruit and vegetables.

• Only partially transposed is the Regulation 101/2013 on the use of lactic acid to reduce the surface microbiological contamination of cattle carcasses, as part of the Government Decision No. 460 of 21 May 2018, amending previous normative acts.

• The work on the drafting of the implementation of the Law on organic agri-food production was initiated in 2018.

Although started, little or no progress has been made in several other areas, including:

• transposition of Regulation (EC) 1234/2007 on the common organisation of agricultural markets (referred to as the Single CMO Regulation);

• transposition of Regulation (EC) 543/2008 on marketing standards for poultry;

• Directive 1999/105/EC on the marketing of forest reproductive material;

• of 54 overdue actions, a substantial number (39) are included in the Government Action Plan 2020-2023, which has reasonable deadlines;

• some actions excluded from the MARDE’s Arrears Calendar for 2020-23 have been included in an additional list:

17 See https://bit.ly/2SeXZ7N.
11 measures for which it is difficult to set an exact deadline and do not have national financial coverage;

- 22 measures conditional on the adoption and entry into force of laws relating to them or that have not reached a broad consensus with a view to their promotion and adoption;

- 6 measures that are obsolete or irrelevant in the context of the obligations deriving from the Association Agreement and/or constitute current activities of the relevant authorities.

Overall, it is too early to assess the implementation of these legislative actions. Legislation is of course a necessary first step, but the harder part comes with the practical tasks of implementation.

**Challenges.** There are structural difficulties hampering the creation and functioning of agricultural producer groups, with an outdated agricultural education system, isolated extension services, and weak agricultural research. The limited availability of banking loans also complicates the situation for farmers, with insufficient supply of long-term loans (the majority of investment loans are for three years) and high interest rates (15–20% per year).

The agricultural sector lacks supply-chain coordination and post-harvest infrastructure. The dependence on imported agro-chemicals, seeds and fuels is also problematic. Last but not least, there are deficiencies related to transparent and fair access to the mechanism for agricultural subsidies, which over the period 2010–19 accounted for about €340 million.

There is a high degree of vulnerability to fluctuations in climatic conditions (droughts, soil erosion, landslides, hail, frost and floods). The drought in 2019 affected not only the overall annual harvest, but has had a great impact on the 2020 spring crops too. The most optimistic prognosis foresees that the total production may decrease by 20–25% in 2020 compared with 2019, when the decrease in total production reached 11%. These challenges are heightened by restricted access to irrigation systems and low take-up of modern technologies (plants resistant to droughts, anti-hail systems, meteorological risk assessments, etc.).

The public administration reform and the ensuing political instability has delayed the implementation of DCFTA commitments,
and the failure to strengthen institutional capacity will maintain the risk of improper implementation of the Association Agreement commitments.

The suspension of the EU budgetary support in 2017, owing to insufficient fulfilment of broader political conditions, was costly for the agricultural sector. Less than half of the €120 million pledged through the European Neighbourhood Instrument, with some €58 million through the ENPARD programme, has reached the country’s agricultural sector.

Agriculture at a glance

Moldova has considerable potential for agricultural development, including for exports to the EU, which are now growing at a good pace. Major problems include low adaptability to climatic fluctuations, deficiencies in the organisation of agricultural producers, products with low added value and poor access to finance.

Moldova has adopted an ambitious programme for replicating many technical elements of EU farm policy. There are substantial EU technical assistance and funding projects to assist the process, with grants from the EU budget and capital from the EIB. However, there are some concerns that the commitments made in the Association Agreement exceed Moldova’s capacities to reform its agricultural sector. Therefore, in addition to updating Annex VII, the EU and Moldova should also consider recalibrating Annex VII, with more of a focus on the most urgent priorities for Moldova’s agricultural reform process.

Natural disasters (droughts) emerge as one of the main challenges, which Moldova should learn to prevent through adaptation to the climatic changes. The technical and financial support of the EU is fundamental. The extension of the EU’s ‘Green Deal’ to the associated countries may represent a platform to sustain the efforts of adaptation in the agricultural sector.
24. EMPLOYMENT AND SOCIAL POLICY

The Association Agreement seeks to promote cooperation over a large part of EU labour law and related conditions of work, much of which is closely related to the content of the International Labour Organization (ILO) conventions that Moldova has already ratified.

Provisions of the Agreement

The EU labour-related legislation to be transposed is divided into three main categories: labour law, anti-discrimination and gender equality, and health and safety at work, and the numerous relevant directives are listed in Annex III.

The labour law category includes eight EU directives for gradual approximation to legislation. Among other issues, these directives cover employers’ information and consulting obligations, part-time work, fixed-duration employment, collective redundancies and organisation of working time. All these directives should have been transposed into national legislation within three to four years of the date of entry into force of the Agreement.

The anti-discrimination and gender equality category includes six EU directives for approximation. The main fields of regulation are equal treatment between people in employment and occupation, and access to and supply of goods and services. The
period of approximation for these directives was planned to be three to four years.

Health and safety at work is the largest category, containing a body of 25 directives for legislative approximation. Among the many provisions covered in these directives are minimum health and safety requirements for the use of work equipment at temporary or mobile construction sites, and the protection of workers from risks related to asbestos at work. The timeframe for legislative adjustment is 3 to 10 years, with most directives requiring 7 to 10 years for approximation.

New EU legislation and policies

Soon after the signing of the Agreements, the EU proposed a new strategy for growth and unemployment that defined five targets to be achieved by 2020.¹ This included employment, research and development, climate change and energy, education, and the fight against poverty and social exclusion. In line with this strategy, the EU introduced new rules on the social dimension of employment and updated existing rules on health and safety at work.

The new laws in the social area refer to the Directives on the work-life balance for parents and carers,² transparent and predictable working conditions,³ equal treatment of the temporary agency workers⁴ and the integration of the long-term unemployed into the labour market.⁵ Most recently the Council also adopted a recommendation on access to social protection for workers and the self-employed.⁶ The amendments in the EU rules on health and safety at work mainly update safety standards for the works related

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⁴ Directive 2008/104/EC.
to the use of chemical, physical and biological agents, and establish a list of indicative occupational exposure limit values.

There are more changes expected in EU legislation in line with the third pillar of its planned Green Deal in the aftermath of Covid-19. According to the Deal the EU is committed to green investments that are supposed to create high quality and stable jobs. This includes training, a just transition for all workers in high-carbon industries, rewards for child and eldercare, and activities for the regeneration of natural systems.

For the moment there are no formal amendments incorporated in the Agreement. However, Moldova is discussing potential updates with the EU in its commitments on social policy and employment.

**Implementation perspectives**

Until recently, Moldova’s labour market presented a contradictory picture. On the one hand, unemployment was at its lowest historical level of 3–5% up until the current economic crisis caused by Covid-19. On the other hand, the employment rate is still only about 40%, which is the lowest in the region. It reflects the significant number of Moldovan workers who have emigrated in search of work. The precise number of emigrant workers is unknown because methodological changes were made in the 2019 employment statistics, but according to older official data the number of emigrant workers has oscillated between 300,000 and 350,000. Another feature of the local labour market is the high level of informal employment, which in 2018 surged up to 40% of total employment. This presents a huge challenge for the authorities trying to implement the ‘Decent Jobs’ agenda of the ILO. All these indicators

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8 Directive 2013/35/EU.
may worsen significantly from the impact of Covid-19 on the labour market. In the first five months of 2020, the number of officially registered unemployed persons has already more than doubled in comparison with the start of the year. This increase results partly from the return of Moldovan migrants amid the chain of lockdowns in Europe and Russia.

Moldova has an elaborate legislative and institutional framework that governs all labour-related issues at both national and international layers. From the institutional viewpoint, this realm is regulated by the Ministry of Health, Labour and Social Protection, with some agencies subordinated to it for specific issues. The main institutions are the State Labour Inspectorate, responsible for monitoring the implementation of labour contractual clauses, and the National Employment Agency, which is in charge of implementing active labour market policies. These institutions have played a role in softening the impact of Covid-19 on the labour market by proposing and implementing measures to support the increasing number of unemployed persons, including the returning migrants.

Moldova has ratified all eight ‘fundamental’ and all four ‘governance’ core conventions of the ILO. Furthermore, Moldova has ratified 30 of 177 technical conventions of the ILO and its goal is to continue the ratification process in accordance with the objectives of the Agreement. There is a close relationship between the ILO conventions and EU labour market law, as Box 24.1 details.

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12 After 2017, as a result of central public administration reform, the State Labour Inspectorate is no longer responsible for monitoring the implementation of labour health and safety standards. This responsibility was devolved to 10 other agencies, responsible for given sectors.

13 See https://bit.ly/3f2qt6E.
Box 24.1 Relationship between EU employment, social directives and ILO conventions

“There is an interplay between EU labour law, the European Social Charter and ILO Conventions: EU law, in particular the Charter of Fundamental Rights, takes into account the European Social Charter and ILO Conventions and in turn influences the evolving content and monitoring of the latter instruments.

All EU Member States are also members of the ILO. The EU is committed to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen social dialogue on work-related issues, which are part of the ILO’s ‘Decent Work’ agenda.

All EU countries have ratified the core labour standards – that is, the fundamental ILO Conventions on freedom of association, collective bargaining, forced and child labour, equal remuneration and the elimination of discrimination. EU countries have also ratified the ILO ‘Governance Conventions’ on labour inspection, employment policy and tripartite consultations, as well as a considerable number of other ILO Conventions.

While ILO standards cover a wider range of areas than those in which the EU is competent to legislate, and EU law often goes beyond the minimum provisions of ILO Conventions, the principles that underlie the action of both organisations are similar. There is much common ground in the content of EU directives and ILO Conventions, with EU law reinforcing ILO standards. Directives on issues such as working time and young workers (see chapter 3) explicitly seek to take into account relevant ILO standards.

The protection, realisation and enforcement of core labour standards as well as the promotion of the ratification and effective application of other up-to-date ILO Conventions underpinning the Decent Work Agenda, are part of a growing number of bilateral agreements between EU and third countries, such as the new generation of EU free trade agreements. The follow-up mechanisms of these agreements include monitoring mechanisms involving social partners.”

**General labour law.** There are six laws that mainly regulate employment policy.\(^{14}\) The backbone of the regulatory framework is the Labour Code approved in 2003, which is far removed from the former code of the Soviet period. This code significantly improved the legislative environment of the labour market. Nevertheless, not all the aspects of Soviet legislation were repealed. Also, despite many adjustments over the past decade, there are still some discrepancies between the economic reality and legislative provisions of the code. Business associations are seeking many amendments to boost the flexibility of the labour market, notably concerning the extension of trial periods, allowing the temporary transfer of an employee to another job, shift work, introduction of temporary agency work, and the review of arrangements to compensate for supplementary hours.\(^{15}\) In this context, in late 2016 the Prime Minister issued an order to start drafting out a new, more liberalised Labour Code. A new draft of the Code was presented in the framework of the Economic Council of the Prime Minister in October 2017, but since then the legislative process has stopped. There had been criticism from civil society that the drafting of the new Code lacked evidence-based assessments.\(^{16}\) There have been no significant movements in elaborating a new Labour Code since, because any large consensus between the stakeholders in the social dialogue (the associations of employers and the trade unions) is lacking, as is the political will to take a direction with the Code.

Most of the eight EU directives on labour law to be transposed in national legislation had been implemented by the end of 2017. In 2016 these were transposed to the provisions of Directive 91/533/EEC on the employer’s obligation to inform employees of the contract conditions, and Directive 1999/70/EC on fixed-term work, but the political crisis meant their adoption was delayed for a year.\(^{17}\) Subsequently, in 2017, the Labour Code was amended in

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14 More specifically, these are the Labour Code, the Law on Employment Promotion and Unemployment Insurance, the Wages Law, the Law on the Setting and Review of Minimum Wage, the Law on the Unitary Pay System in the Budget Sector and the Law on State Labour Inspectorate.


17 See Law No. 52 of April 2016.
accordance with three other directives: i) Directive 97/81/EC concerning the Framework Agreement on part-time work; ii) Directive 2001/23/EC relating to the safeguarding of employees’ rights in the event of transfers of undertakings; and iii) Directive 2002/14/EC on establishing a general framework for informing and consulting employees. Provisions of Directive 91/383/EEC on the safety and health for fixed duration employment or temporary employment relationships were already implemented into national legislation before the Agreement entered into force. The remaining Directive 98/59/EC on collective redundancies was transposed in 2018, while there are delays with Directive 2003/88/EC on certain aspects of the organisation of working time, which should have been transposed in the first half of the 2019.

**Anti-discrimination and gender equality issues.** These are governed by legislation promulgated in 2006 and 2012 on ensuring equal opportunities for women and men. These laws already include most provisions of the two directives mentioned in the Agreement, namely Directive 2000/43/EC on equal treatment between people irrespective of racial or ethnic origin, and Directive 2000/78/EC on equal treatment in employment and occupation. Also, in 2016 a set of amendments was transposed to another three directives, namely Directive 2006/54/EC on the principle of equal opportunities and treatment in matters of employment and occupation, Directive 2004/113/EC on the principle of equal treatment in access to and supply of goods and services, and Directive 92/85/EEC on improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. As in the case of other amendments drafted in the second half of 2015, their final adoption was postponed by a year because there was no functional government. The remaining Directive from Annex III, like Directive 79/7/EEC on the progressive implementation of the principle of equal

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19 See Law No. 85 of May 2018 transposing the Directive 98/59/EC.
20 See Law No. 5-XVI of 9 February 2006 on ensuring equal opportunities for women and men and Law No. 121 of 25 May 2012 on equality.
treatment in matters of social security, was not transposed by the end of 2018 with a separate law, as was initially envisaged. Most provisions of this Directive became part of the national labour security legislation earlier, when the authorities decided to equalise the retirement age for men and women by 2028.\textsuperscript{22}

However, a major challenge remains in promoting practical actions to eliminate barriers and attract the inactive economic population, especially women. The hurdles for women to re-enter the labour market after giving birth remain unchanged, because the kindergarten infrastructure is underdeveloped and overcrowded in big cities. A further problem is the lack of a nursery network to take care of children under the age of three. Without developing an extensive nursery network, it will be impossible to attract women of childbearing age to the labour market.

Health and safety at work. This is regulated by two main laws, one of 2008 on occupational safety and health, and another of 1999 on insurance for work and accidents and occupational diseases. There are also many normative acts adopted by government decisions that implement the provisions of these laws in different sectors of the economy.

Moldova has made considerable progress in transposing the health and safety standards into national legislation. Directive 89/391/EEC on improvements in the safety and health of workers at work was already included in the law on occupational safety and health. Another six directives stipulated in the Agreement were implemented in national legislation by government decisions in the years preceding the final adoption of the Agreement.\textsuperscript{23} Also, three

\begin{itemize}
  \item Directive 89/654/EEC on the minimum safety and health requirements for the workplace was transposed by Government Decision No. 353 of 5 May 2010
  \item Directive 2009/104/EC on the minimum safety and health requirements for the use of work equipment by workers at work was transposed by Government Decision No. 603 of 11 August 2011
  \item Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites was transposed by Government Decision No. 80 of 9 February 2012
\end{itemize}

\textsuperscript{22} See Law No. 290 of December 2016.

\textsuperscript{23} More specifically, the following directives were implemented:
further directives were implemented in 2016, namely Directive 90/270/EEC on the minimum safety and health requirements for work with display screen equipment and Directive 2002/44/EC on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (vibration). In addition, Directive 90/269/EEC on the minimum health and safety requirements for the manual handling of loads where there is a particular risk of back injury to workers, was transposed. In 2018, Directive 2004/40/EC, concerning minimum health and safety requirements regarding the exposure of workers to the risks arising from physical hazards, was transposed, while most of the remaining Directives are envisaged to be transposed by 2024.

During the most acute phase of the Covid–19 outbreak, temporary health and safety rules were imposed by the National Exceptional Situations Commission. Among the main rules, intended to contain the spread of the virus, has been the obligatory closure of all hospitality sectors, distance work for all non-essential staff from public institutions, and quarantine measures for all undertakings with proved infections, etc.24

**Overall assessment.** Despite progress in the approximation process, there are still some important issues to be addressed in the field of health and safety at work. One of these is the ratification of ILO Convention 161 on Occupational Safety and Health. This convention, which requires the creation of occupational and health services at the enterprise level, mostly with the preventive functions, was suggested to the national authorities by the ILO, but is still only under consideration. There was no progress in recent years on this Convention and Moldova still does not ratify it. Also, there are several additional Conventions recommended in 2013 by

- Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work was transposed by Government Decision No. 244 of 8 April 2013
- Directive 92/58/EEC on the minimum requirements for the provision of safety and/or health signs at work was transposed by Government Decision No. 918 of 18 November 2013
- Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (noise) was transposed by Government Decision No. 362 of 27 May 2014.

the ILO for adoption, but not approved until now.25 These Conventions are technical ones, and there was no significant advocacy effort from civil society and social partners to promote their adoption.

Emerging concerns are reflected in the policy measures adopted to counter the impact of Covid-19 on the labour market. The economic shock caused by Covid-19 could have deep and lasting negative impacts both on quantitative and qualitative indicators of the labour market including higher unemployment, rising economic inactivity and informal employment, as the experience of previous economic crises of similar magnitude from 2009 has demonstrated. The crisis caused by Covid-19 has many similar transmission channels into the economy and labour market as the 2009 crisis had, both internally (drop in consumption and demand) and externally (drop in exports and remittances).

Besides the efforts to transpose the provisions of the Association Agreement, there should be urgent fiscal and other structural stimuli to sustain employment in the short term. There were some efforts at Government level to soften the blow of the Covid-19 crisis by increasing the value of unemployment benefits and extending them to all categories of beneficiaries, including returning migrants, and offering the opportunity to file requests for unemployment benefits online. Some temporary forms of wage cost compensations were introduced for businesses that were obliged to close completely or partially.26 But these initial efforts need to be boosted through revision and extension of subsidies for job creation and maintenance.

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26 See Law No. 56 of 02 April 2020.
Employment and social policy at a glance

Moldova has developed an elaborate legislative and institutional framework that governs all labour market issues, which for the most part corresponds to the standards of the EU and the International Labour Organization (ILO).

There were some delays transposing EU directives on employment, social policy and equal opportunity, but most were undertaken on time. This should strengthen the quality of Moldovan legislation.

In the short term, the efforts to improve labour legislation should be supplemented with fiscal and structural stimuli, to dampen the impact of Covid-19 on the labour market. The recent crisis has similarities in transmission channels and magnitude to the crisis of 2009, beyond of course the health aspects. There are significant risks that unemployment, economic inactivity and informal employment will increase and persist.

The high level of informal employment hinders the process of implementing labour legislation and can only increase as a result of the 2020 economic shock.
EU Gender policy

Comprehensive statements of EU gender policy are found in two Commission documents; the first is a multi-year strategy document for the years 2016 to 2019 and the second is the recent 2019 annual report that tracks how far the strategy is being achieved. The strategy document states the following:

Promoting gender equality is a core activity for the EU: equality between women and men is a fundamental EU value, an EU objective, and a driver for economic growth. The Union shall aim to promote equality between men and women in all its activities.

To this end the Commission has prioritised five key areas for action:

- equal economic independence for women and men
- equal pay for work of equal value
- equality in decision-making
- dignity, integrity and ending gender-based violence
- promoting gender equality beyond the EU.

These headings are specified with many quantitative indicators and policy initiatives. A specialised EU agency, the European Institute for Gender Equality (EIGE), founded in 2010 and


25. GENDER POLICY AND PRACTICE
based in Vilnius, monitors the evolution of gender balances in the EU, with the aid of comprehensive statistics on gender balances, using 75 indicators for all EU member states. The Balkans and Turkey are now also included, but not yet the Association Agreement states.\(^3\)

Main quantitative indicators are now reviewed. Each of these headings is of course subject to a vast range of contextual differences and policy measures at the level of individual member states, which cannot be reviewed here, but details are contained in the references.

**Equal economic independence for women and men.** The key indicator used here is the labour force participation rate for which the target of 75% was set to be achieved by both men and women. Female participation has been increasing, from 62% in 2010 to 66.4% in 2017, which is at a faster rate than for men, so the gap is gradually reducing. Member states range from 80.8% participation in Sweden to 61.3% in Estonia.

**Equal pay for work of equal value.** In 2017 women’s pay was, on average, 16% less than for men in the EU28, marking only a slow decrease from the 17.2% recorded in 2010. The range between the EU member states is between the lowest 3.5% pay gap in Romania to 25.6% in Estonia. The gender gap is much wider for pensions, where women received on average 36% less than men.

**Equality in decision-making.** In the business sector the number of female CEOs of major corporations has had a modest rise from a very low 2.5% in 2013 to 6.5% in 2019. The corresponding numbers for board members saw an increase of 11.9% in 2010 to 26.7% in 2018. Four EU member states (Belgium, France, Germany, Italy) have introduced binding quotas on female board representation, and in these countries board representation increased from 10% in 2010 to 37.5% in 2018, where in other member states the advance was more limited or nil.

In the political sphere low levels of female representation at the highest decision-making levels are apparent in most EU member states. The EU-28 average has seen only a gradual increase in female representation in parliaments (lower houses) from 27.1% in 2004 to

30.2% in 2018. The range between individual member states is wide, from 46.1% in Sweden to 17.9% in Cyprus.

For their part, the EU institutions have recently seen striking developments towards gender equality. The new European Commission, taking office in November 2019, saw gender equality almost achieved for the first time in nominations to the college of Commissioners (14 men and 13 women). This was also observed at the very top level, with women appointed to the presidencies of the Commission (Ursula von der Leyen) and European Central Bank (Christine Lagarde), alongside men appointed to the presidencies of the European Council and European Parliament. The European Parliament has seen a steady increase in female MEPs, rising from 16% in 1979 to 30% in 1999 and reaching 41% in 2019.

*Dignity, integrity and ending gender-based violence.* Data on violence against women is rarely available but the EIGE is making efforts to find out more. There are some data from France, where 33% of women report physical or sexual violence, and 55% sexual harassment.

In 2017 the EU acceded to the Council of Europe’s Istanbul Convention on preventing and combating violence against women and domestic violence, following all 28 member states bilaterally. This is the most far-reaching international treaty regarding violence against women, and it established legally binding rules and standards to prevent violence.

*Promoting gender equality beyond the EU.* The EU institutions have published an extremely detailed report on gender actions in the external policies of the EU worldwide in the framework of a Gender Action Plan “focused on ensuring that programmes are gender mainstreamed”, and that “Gender equality has been prominently included in EU political positions and dialogues with partner countries.”

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4 One of the female nominees was rejected by the European Parliament and replaced by a man.

Provisions of the Association Agreement in Moldova

The Moldovan Agreement contains the following objective:

*Article 320 (c): providing equal opportunities, which aim to improve gender equality and ensure equal opportunities for men and women, and to combat discrimination of all kinds.*

The supporting Annex III to Chapter 4 on employment, social policy and equal opportunities contains several Directives on anti-discrimination and gender policy, notably:

- Directives 2000/43/EC and 2000/78/EC on the principle of equal treatment
- Directive 2004/113/EC on equal treatment between men and women in goods and services markets
- Directive 96/34/EC on parental leave
- Directive 92/85/EEC on pregnant workers
- Directive 79/7/EEC on equal treatment of men and women on matters of social security
- Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

Even before signing the Association Agreement, Moldova had made national and international commitments to promote women's empowerment and gender equality, with the adoption of the Constitution (1994), the ratification of the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW, 1994), the Optional Protocol of the Beijing Declaration and Platform for Action, and the adoption of sustainable development goals. Moldova has adopted the 2030 Agenda for Sustainable Development, which includes a cross-cutting gender perspective.

However, the most decisive step was the adoption of *Law No 5 on ensuring equal opportunities for men and women (2006)*, which regulates measures to promote equal opportunities between

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7 See http://lex.justice.md/md/315674/.
women and men and the elimination of direct and indirect discrimination based on sex in all spheres of public life. The Law mentions the need to include its principles in all “public policies, strategies and programs, normative acts and financial investments”, i.e. to ensure an inclusive approach to the gender dimension. A more recent law that governs anti-discrimination policy is the Law on ensuring equality, which entered into force in 2013. The Law was adopted as part of the visa liberalisation dialogue with the EU. The Law provides an institutional framework for ensuring equal opportunities for women and men by appointing the competent authorities with responsibilities in the field: Parliament, Government, Governmental Commission for Equality between Women and Men, Ministry of Health, Labour and Social Protection, line ministries and other central administrative authorities (CPAs) and local public authorities (LPAs). The Law also underlines basic rights and non-discriminatory frameworks for all citizens, of all genders, ethnic, religious, and age categories. The Council for equality ensures the implementation of the Law. One of the basic tasks of the Council is to inform and raise awareness and educate the population on the phenomenon of discrimination, as well as to promote equality. With an average of 273 discriminatory complaints solved annually (regarding gender, age, professional status, freedom of opinion, and HIV) and 33 court cases supervised in the judicial instances in Moldova, the Council is growing its influence, especially in the public sphere.

Commitments assumed in the Association Agreement were translated into several strategies adopted between 2014–19: the Strategy for ensuring equality between women and men 2017-2021; the National Strategy on preventing and combating violence against women and domestic violence 2018-2023; the National Strategy for preventing and combating trafficking in human beings 2018-2023; and other sectoral strategies (health, employment, social protection, security, child protection, etc.). Also, the system of gender-sensitive statistical data was developed and actions were carried out to monitor the implemented policies, etc.

**Principle of equal treatment.** Moldova has committed itself to transposing into national law Directive 2006/54/EC on equal opportunities and equal treatment of men and women in employment and work. But implementation has been fragmentary.
On the one hand, Law No 715 (2016) amended 15 national laws, including the Electoral Code, the Law on Government and the Labour Code, to prohibit discrimination based on an extensive variety of factors, including sex, gender identity, and sexual orientation. That effectively meant that the Moldovan legislation provides measures to combat discrimination. In particular, unjustified refusal to employ, illegal dismissal, prohibition of discrimination, ensuring equal pay for work of equal value, equal conditions for women and men, combining work and family obligations, measures to prevent sexual harassment at work or employment and the prohibition of other violations of employees' rights can be challenged under the Labour Code (2003) and the Law on Ensuring Equality (2012).

On the other hand, the legal framework does not yet provide for measures to ensure wage transparency. According to the legislation in force, the employer is not allowed to communicate to third parties information about the salary of a certain employee, but may communicate information about salary levels, by categories of employees, broken down by sex, without identifying the respective employees.

The legislation also has gaps in the definition of the principle of equal pay for work of equal value between women and men. Thus, the simple enunciation of a principle by law does not make the reality better, nor the lives of employees more equitable.

Another notable change to the legislation entails set quotas for employment of disabled persons at 5% of the company’s personnel if the company employs more than ten people, in line with Directives 2000/43/EC and 2000/78/EC. The amendments make it possible for the government to subsidise new jobs for disabled people, but other incentives are needed to make this attractive and economically feasible for the firms.

**Equal treatment between men and women in goods and services markets.** With the adoption, in March 2017, of the Strategy

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8 See http://lex.justice.md/md/365019/.
9 See http://lex.justice.md/md/365019/.
10 See http://lex.justice.md/md/326757/.
11 See http://lex.justice.md/md/343361/.
on equality between women and men 2017-2021,\textsuperscript{12} Moldova has moved forward in implementing the principle of equal treatment between men and women in the access to and supply of goods and services as defined in Directive 2004/113/EC. The Strategy takes a comprehensive approach, with plans to:

- improve access to healthcare, education, social services, employment, and justice for internally displaced persons;
- support women in entrepreneurship;
- meet the needs of senior women and women with disabilities in healthcare, employment, and education;
- take other steps to provide equal access to services to men and women in different vulnerable groups;
- decrease the gap between the compensation of women and men;
- creating favourable conditions for women to study science, technology, engineering and mathematics (STEM) subjects and improve access to lifelong learning.\textsuperscript{13}

\textbf{Parental leave.} While current Moldovan legislation allows allocating parental leave in part to the father and other family members, Moldova committed to taking further steps to make its parental leave policies compliant with Directive 2010/18/EC (96/34/EC). In line with the CEDAW recommendations there is a new type of leave for fathers: paternity leave of 14 days (Law 71 (2016)). The employer is obliged to encourage employees to take paternity leave. Cases in which the employer creates situations to the disadvantage of employees who take paternity leave are considered punishable cases of discrimination.

The Intersectoral Strategy for the development of parenting skills and competencies for 2016–2022(2016) and its Action Plan for implementation presents a unified vision on the need for training and development of parenting skills.\textsuperscript{14} A series of programmes and services regarding the parental education of the people in the care

\textsuperscript{12} See https://gov.md/sites/default/files/document/attachments/intr16_85.pdf.
\textsuperscript{13} See https://gov.md/sites/default/files/document/attachments/intr16_85.pdf.
of children are to be developed.\textsuperscript{15} Although welcoming the adoption of a field-specific strategy, the representatives of the associative sector developed a set of recommendations to explicitly include the gender perspective in the content of the document, and in the activities provided for in the Action Plan.\textsuperscript{16} The changes to legislation that Moldova committed to make comply with Directive 2010/18/EC.

\textit{Pregnancy, childcare, and safety.} In 2016, Directive 92/85/EEC of 19 October 1992 was transposed into the national regulatory framework and enforced the introduction of measures ensuring the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, laying down minimum health and safety requirements at work. Women can take paid pregnancy leave at work for a period up to 70 days before giving birth and up to 56 days (70 in some cases) after giving birth. The Labour Code obliges employers to transfer pregnant workers to lighter jobs and jobs with a lesser risk of exposure to hazardous factors.

\textit{Equal treatment in social security.} Moldova’s legislation is largely non-compliant with Directive 79/7/EEC on equal treatment of men and women in matters of social security, with a substantial gap in the amount of retirement pensions granted to women and men. The average old-age pension for women in the agricultural sector covers only 69\% of the subsistence value for pensioners, compared with 73\% for men. In the non-agricultural sector, the average pension size for men exceeds the subsistence level by 10\%, while for women it covers only 84\%. The current social protection system does not consider the needs of women for specific and vulnerable demographic groups (women with young children, women in groups vulnerable to discrimination, women engaged in low-paid activities in the social sector, and older women). These groups are excluded from the social protection interventions meant for poverty reduction. The Covid-19 pandemic has shown that women have been more vulnerable to infections than men, with an approximate 59\% of all confirmed cases being women.\textsuperscript{17} During the

\textsuperscript{15} See https://bit.ly/343UhAC.
\textsuperscript{16} See https://bit.ly/343UhAC.
\textsuperscript{17} See https://bit.ly/3vbJS20.
pandemic economic inequality has been exacerbated, with women and girls bearing primary responsibilities for caring for sick family members, including the elderly, caring for children who are out of school as part of containment efforts, and managing the household.

Other policy steps. Moldova has strengthened its legal framework for ensuring equality between men and women by adopting other policy documents, notably the National Action Plan for the implementation of the UN Security Council Resolution 1325 “Women, Peace and Security”, and the National Action Plan on putting into practice the conclusions of the UN Committee on the Elimination of Discrimination against Women.19

In 2017 Moldova ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Implementation of the Convention requires the empowerment of certain institutions, such as the police, in issuing the emergency restraining order, and for conducting studies and mass information campaigns by local public authorities on the phenomenon of domestic violence. Lack of funding and political interest has meant that Moldova’s progress in this regard has been uneven.

Moldova has started integrating gender budgeting into strategic documents of the Ministry of Finance, although not yet carried out in accordance with gender-sensitive budgeting (GSB). GSB has been on the public agenda for several years thanks to the regional project “Promoting gender-sensitive policies in Southeast Europe, phase II”. The project focuses on strengthening the capacity of central and local authorities to use GSB tools.20

Gender realities and priorities in Moldova

There are several problems faced by women in Moldova.

Equal economic independence for women and men. The masculinisation and feminisation of professions remains a challenge both in the education system and in the labour market, women being underrepresented in such fields as information technology,

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19 See https://msmps.gov.md/sites/default/files/cedaw_raport_1_1.pdf.
20 See https://msmps.gov.md/ro/content/rapoarte.
construction (8.2%), industry (44.9%), and agriculture (43.2%). At the same time, women predominate in areas such as services (60.3%), education (79.9%), health (84.4%), social assistance and trade (58.6%), and hotels and restaurants (67.5%).

**Equal pay for work of equal value.** The remuneration level of women is on average 14.4% lower than that of men in most economic activities, the discrepancy ranging from 0.4% in education to 41.4% in financial and insurance activities. Gender pay disparities to the detriment of women were also recorded in such activities as information and communication (32.8%), art, recreational and leisure (18.1%), industry (17.8%), professional, scientific and technical (16.1%) health and social assistance (15.7%), wholesale and retail trade, but also construction (13.3% each).

The Barometer for Gender Perception attributes this difference in earnings between men and women to education, age, working-time status (full-time versus part-time), and sector (private versus public).

The reasons for discrimination are stereotypical perceptions and beliefs about the status and role of women and men in society and in the family. The insufficiency of childcare services in the preschool stage, as well as the low participation of men in the upbringing and education of children, create great obstacles to the professional affirmation of women and their involvement in public and political activities. Compared with other European countries, Moldova has the highest rate (more than a third) of young women aged 15–29 in the ‘not in education, employment or training’ (NEET) group.

Latest data for 2018 shows a slight increase in the employment rate of women (from 38.1% in 2017 to 40.0% in 2018), and improvement for the employment of mothers with at least one child under six years old (from 36% to 39.1%).

**Equality in decision-making.** Legislation now pushes political parties to implement the principle of equality between women and men, with Law No 5-XVI of 9 February 2006 on ensuring equal opportunities between women and men, the

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Electoral Code, and Law No 294 of 21 December 2017 on political parties. The latter obliges political parties to comply with the minimum quota of 40% representation for both sexes in the governing bodies and in the lists of candidates. Also there are advantageous conditions for women regarding the mandatory number of signatures to be collected in order to be registered as candidates for the position of deputy in uninominal constituencies. Thus, a female candidate may be registered if she has the signatures of at least 250 (500 for men) and at most 500 (1,000 for men) of voting supporters in the constituency where she is running. At the level of legislative power the number of women in decision-making positions has remained constant. Since the 2019 parliamentary elections, 25% of the deputy positions are now held by women. At the level of the central executive, there was a considerable increase in the number of women in the cabinet from 20.8% in 2016 to 38.5% in 2017, in part the result of the reform of the central public administration. With regard to the representation of women at the local level, there is a slight increase in the number of female mayors in 2015 from 2011, and in local councils in 2019 from 2015.

In 2019 there was a female prime minister for a second time, Maia Sandu. Her short-lived cabinet (of five months) included five female ministers representing half of the cabinet. In 2020 Ms Sandu was elected president, the first time for a woman.

**Dignity, integrity and ending gender-based violence.** In Moldova, 7 out of 10 women in rural areas and 6 out of 10 in urban areas have suffered from at least one form of spousal/partner violence over their lifetime. In 2015, 36 women were murdered, while more than 80 women were severely injured as a result of violence. Violence remains tolerated in Moldova. About 41% of men and 19.1% of women agree, fully or partially, that there are moments when a woman deserves to be beaten, while 27.7% of men and 17.5% of women think that a woman should tolerate violence in order to preserve the family.

Moldova has committed to ending violence against women by ratifying CEDAW and passing the Law on preventing and fighting domestic violence. In 2016 the Parliament adopted a complex package of measures to ensure a high degree of safety to the victims of violence, including the provision of a 10-day
emergency restraining order during which the aggressor is immediately removed from the family home.

In Moldova, national legislation has been partly harmonised with the EU directives on economic equality of men and women and anti-discrimination. The country made both legal and organisational steps towards ensuring gender equality by adopting laws and programmes on providing equal opportunities for women and men. Despite that, the pay gap between men and women in Moldova is notably higher than the EU, and there is still a long way to go to ensure quality participation in the decisional process for women and providing opportunities for women leaders to thrive. From the perspective of public policies, the authorities have yet to address both the structural causes of labour market inequalities and those attributed to employers, and the modification of the relevant legal provisions to ensure the principle of equal work and work of equal value, and for ensuring wage transparency.

If the current trend is maintained, then gender equality in Moldova will only be achieved in the very long term. Most likely the political debate in Moldova will focus on gender issues in different policy areas and including gender in the national expenditure strategies, and on the implementation of the strategy on equal treatment of women and men. Women have proved to be politically effective, especially in times of crisis, and political parties are expected to recruit more women into their ranks to comply with electoral gender quotas. Programmes supporting female entrepreneurs as well as women in technology and science are likely to be implemented with the assistance of international donors.
Gender policy and practice at a glance

EU member states make steady if slow progress towards improving gender equality. In 2019 the EU institutions took big steps themselves towards gender equality in leadership positions.

In Moldova, national legislation has been partly harmonised with EU directives on economic equality of men and women, and anti-discrimination. However, progress in implementing EU directives has been modest, with problematic issues left unsolved, especially regarding women’s empowerment in the economic and social spheres, and gender-based violence. Lack of funding and sometimes political interests hinder the implementation of strategic commitments to improve gender equality.

Quality participation in decision-making processes is far from achieved. However, women have proved to be politically effective, especially in times of crisis, and political parties are expected to recruit more women into their ranks. Maia Sandu’s election as president in 2020 after a campaign prioritising the fight against corruption, is the most striking example.
Education, training and youth

The Association Agreement dedicates Chapter XXIII to ‘Cooperation on education, training, multilingualism, youth and sport’. The chapter sets out certain goals for the education system, notably its reform, modernisation and convergence with the Bologna Process in the field of higher education, which includes enhancing the quality and relevance of higher education. The Association Agenda details some substantial instruments for undertaking the reforms.

In the World Economic Forum’s human capital index, Moldova was ranked 62 out of 130 countries, and last among European countries. The United Nations Development Programme (UNDP) Human Development Index (HDI) is equally unfavourable, with Moldova ranked 107th out of 189 countries in 2019,1 and behind Georgia and Ukraine. According to the time series of this UNDP index, there has not been a substantial improvement in Moldova’s performance since 1980. These low rankings imply a lack of human capital for any major recovery in Moldova’s economic performance.

According to the Programme for International Student Assessment (PISA), 15 year-old students perform less well than the OECD average. Ranked by reading score, Moldova takes 51st place

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1 See https://bit.ly/3tZbWnG.
out of 79 countries, in this case ahead of Georgia (71st) but behind Ukraine (39th). The share of top performers in reading, mathematics or science is around 3%, and the shares of low achievers in reading and in mathematics are 43% and 50% respectively. Most teachers in both advantaged and disadvantaged schools are ‘fully certified’ and the clustering of low-performing students in certain schools is less often than the OECD average. However, the gap in reading between socio-economically advantaged and disadvantaged students has been increasing since 2009. Regarding gender, girls score similarly to boys in mathematics but outperform boys in science by 11 score points.

Moldova joined the Bologna Process in 2005, and this led to the adoption of the three-cycle higher education system (with bachelors’, masters’ and doctoral qualifications), which is an important step towards matching European standards. According to the new system, bachelor programmes should include no less than 240 credits under the European credit transfer and accumulation system (ECTS), masters’ degrees have to comprise no less than 120 ECTS and doctoral programmes no less than 180 ECTS. In 2008, the first group of around 31,000 graduates finished their studies at universities in accordance with the Bologna Process for the first cycle (bachelors’). In the same year, the second cycle (masters’) of two-year courses following Bologna principles was launched. These programmes have developed further. Thus, in 2019–20, 18 public and 9 private higher education institutions\(^2\) enrolled 56,840, compared with 74,726 students in 2016–17, in accordance with the Bologna system. Women constitute 58.5% of the total cohort of students.

For demographic and migration reasons, the numbers of the enrolled in education population has declined dramatically in just one decade. The number of students almost halved in 2019–20 compared with 2011–12 (from 103,956 to 56,840 persons respectively). Similarly negative trends, though on a lesser scale, occur within education staff, down at 35,565 persons in 2020 from 48,729 in 2011. The Bologna Process for doctoral studies is under development, with a few pilot doctoral programmes at two higher

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\(^2\) See the list of higher education institutions, Ministry of Education, Culture and Research.
education institutions. The number of doctoral students was 1,641 persons in 2019, which represents a 4.6% growth from 2018. The numbers of foreign doctoral students, who mainly come from Romania and Israel, increased by 26% in 2019 (589 persons) compared with 2018. The most popular studies for both bachelors’ and masters’ studies remain social sciences, economics, law, engineering, technologies and architecture; whereas agriculture, healthcare and services remain less popular.

Other changes in the education field supported through the Bologna Process envisage the implementation of the ECTS, which facilitates the participation of students in European academic mobility programmes. The Government Decision No 56 of 27 January 2014 on academic mobility for bachelors’, masters’ and doctoral studies ensures the recognition of qualifications (diplomas) in the EU and other countries participating in the Bologna programme. During a meeting of the Bologna Follow-up Board in January 2016, the Ministry of Education restated its commitment to developing the quality assurance framework (on the basis of the National Agency for Quality), and to making further adjustments to the national qualifications framework.

The EU supports the adjustment of Moldova’s vocational training to the needs of the labour market, as well as linguistic diversity, language learning and professional lifelong learning as drivers for job creation and growth. A regulation organising dual vocational education and training (VET) was approved at government level in January 2018, with support from the EU. This foresees an apprenticeship salary paid by the training company. For the period 2017–18, 50 companies launched dual programmes with approximately 600 persons benefiting from the system. In 2018–19, around 70 companies provided 1,500 apprenticeship places. The recruitment rate of those who graduate VET is about 60%. However, for VET to be fully operational, cooperation between the public and private sectors needs consolidation, as well as capacity building for the educational institutions and the involved enterprises. The aid agency, German Society for International Cooperation (GIZ), addressed these shortcomings in a project that promotes VET in the field of green economy (2018–21), with financial support of the Swiss Agency for Development and Cooperation.
In the context of the government reform of 2017, a new National Agency for Assessing the Quality of Education and Research started to function in 2018.

The EU also supports Moldova’s educational reforms and modernisation through capacity building, and mobility and exchanges of both teachers and students. Moldova’s Academy of Public Administration, the State University of Tiraspol, the Technical University of Moldova and Moldova State University are part of consortia that were awarded joint capacity-building projects in 2015, with a budget of over €3 million. The projects focus on enhancing the competitiveness and employability of students, modernising libraries and creating an e-network to promote innovative e-teaching in continuing professional education.

The EU’s largest contributions are made through the Erasmus+ programme. From 2014 to 2018, thanks to Erasmus, there were 7,259 Moldovan scholarship winners, with mobility projects through scholarships, teaching, training activities and study visits, and these numbers are expected to grow in the coming years. Out of 30 universities in Moldova, 23 are active participants in the Erasmus+ programme. Since 2013, through Erasmus+, the EU has financed the eTwinning programme that aims to develop school networking and twinning. The co-financers of the programme were the Swedish Government (2014–18), and the Ministry of Education, Culture and Research (in 2013 and from 2019).

The EU also offers financial assistance for the renovation of the infrastructure of several schools in the Transnistrian region through the Support to Confidence Building Measures programme implemented by the UNDP.

Romanian is the sole state language of Moldova, but a minority of around 10-15% of the population uses Russian. Studies in the Russian language for primary and secondary education, together with other national minority languages, are ensured by the state in regions populated by minorities and where a ‘sufficient demand’ exists. Studies in Russian in higher education institutions (at the bachelors’, masters’ and doctoral levels) are also available.

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4 See Art. 20, Law No 3465-XI on the functioning of the languages spoken on the territory of Moldova of 1 September 1989.
The Ministry of Education, Culture and Science earmarked about MDL 500,000 in 2016 for improving the teaching of the Romanian language to minorities.

Overall, diplomas issued by the universities and other higher education institutions in the Transnistrian region are recognised throughout Moldova for job applications. As for enrolment in studies, a complementary year and bachelors’ exams are requested from those who hold diplomas issued by Transnistrian institutions for accreditation of BA studies on the right bank of the Dniester River. The Government recognised documents issued by the Transnistrian institutions in February 2018 as part of the negotiations in Transnistrian conflict settlement. People with diplomas issued by University ‘Taras Shevchenco’ from Tiraspol are among the first beneficiaries. The separate Law on Education, adopted by the Gagauzia autonomy in April 2016, caused tensions with the central authorities during 2016 as it contradicts the national education legislation by considerably diminishing the role of the central authorities and reducing the autonomy of its universities. A court case followed and in 2018 the Supreme Court of Justice issued a final decision that favoured the claims of the Ministry of Education, Culture and Research. This decision cancelled the controversial Law on Education adopted by the legal body of the Gagauzia autonomy.

Culture

Cultural cooperation between Moldova and the EU is based on exchanges and the mobility of arts and artists. In particular, Moldova participates fully in the EU’s Creative Europe programme for cultural and creative sectors, signing an agreement to this effect with the European Commission in March 2015. Participation in this programme aims to connect cultural and creative organisations from Moldova with partners from all over Europe, opening access

5 See p. 17, Plan-framework for higher education (BA, MA and PhD) of 22 October 2015.
to funds for cultural cooperation projects, literary translation schemes, cultural networks and platforms.

The EU and Moldova also pledge to cooperate in the framework of UNESCO and the Council of Europe to sustain cultural diversity, preserve and valorise cultural and historical heritage.

Concrete cultural cooperation projects were implemented with the EU’s eastern neighbours under the ‘Culture Programme II’, launched in September 2015. The programme budgeted €4.95 million for two components: EU support for capacity building and the inclusion of culture on the political agenda; and joint EU and Council of Europe support for 6 to 12 historic towns to develop urban strategies for rehabilitation of heritage. A series of reports were published, focusing on solutions on how to develop Moldovan cultural and creative centres and to incentivise and professionalise the cultural sector. The programme also offered access to 14 online courses, translated various handbooks into Romanian and created a database of different culture-related topics.

As part of the confidence-building measures financed by the EU, the renovation of cultural-historic sites on both sides of Dniester River is planned. However, the government lacks public funds to conduct similar projects on its own.

New EU legislation and policies

According to the European Commission’s Communication on the new Eastern Partnership beyond 2020, cooperation on education, training and youth falls in the first priority area.

The main focus of Erasmus+ post-2020 will be on education reforms and teacher training. Young people will be able to participate in the European Solidarity Corps by volunteering or working in projects around Europe. Moreover, the Communication puts forward a new deal for youth with the following elements: (i) bridging the gap between the labour market and the education sector; (ii) supporting the employability of youth and youth entrepreneurship; (iii) active labour market measures, such as the

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8 See https://bit.ly/3v6CrZQ.
Youth Guarantee; and (iv) setting up a mobility and exchange programme for Eastern Partnership (EaP) young professionals.

The new policy does not provide much detail on culture, but mentions that, in order to promote European values, the EU will reinforce cooperation in the field of cultural heritage and creative industries post-2020.

**Future developments sought by Moldova**

In its contribution to the EaP structured consultation\(^10\) Moldova expressed its interest in the following:

- Access to more EU support for investing in the area of general education, professional training, digitalisation of the education process and education of IT specialists;
- Strengthening the capacities of VET institutions with a particular focus on teachers’ competences, collaboration with the private sector and research entities, and increased mobility of students and teachers between the VET of Moldova and the EU;
- Application of the Multilevel VET Governance Toolkit developed by European Training Foundation (ETF) and opening the Erasmus+ VET projects for the Republic of Moldova;
- Implementation of the New Deal for Youth with a focus on the Youth Guarantee in Moldova.
- Extending the DiscoverEU initiative to Moldovan youth;
- Supporting Moldova’s integration into the European Research Area (ERA);
- Envisaging the launch of a third phase of the EaP Culture programme and engaging EaP states in the Music Moves Europe Dialogue.

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\(^{10}\) See https://ec.europa.eu/neighbourhood-enlargement/tenders/consultation_eap_en.
Education, training and culture at a glance

Moldova’s human capital endowment is rather low and educational performance has not improved substantially in the past three decades. The situation is complicated by a steady demographic decline of the youth population.

Basic educational reforms are supported in the Association Agreement, notably for higher education through the Bologna Process and the European Higher Education Area, and with concrete programmes such as Erasmus+, which benefits large numbers of Moldovan students.

Moldova has joined the EU’s culture programme with an agreement signed on 18 March 2015.

Moldova seeks the EU’s support to invest in education with a particular focus on vocational education training (VET) and digitalisation of education processes.
The Association Agreement sets out wide-ranging objectives for cooperation in the area of science and technology, which aim to strengthen research capacities and human potential and to share scientific knowledge. The Agreement encourages the EU and Moldova to implement joint projects, conduct training courses and increase the mobility of programmes and scientists through exchanges for Moldovan researchers. It also intends to facilitate the involvement of Moldovan institutions in the European Research Area (ERA).

While the terms of the Agreement are mostly general, it was followed up by an important complementary MoU signed in August 2014 for Moldova’s full participation as an associate country in the Horizon 2020 (H2020) Framework Programme for Research and Innovation for 2014–20. Moldova’s associate status in H2020 provides similar rights as those of an EU member state, including a seat in the governing structures of the fund. The membership comes with a price tag, proportional to its GDP, which is, however, alleviated through substantial rebates. Overall, throughout its association with H2020, Moldova has become a net contributor – the price tag for participation has so far outweighed funds received from H2020. This is mainly because applications are often of poor quality and do not qualify for funding.

With its very substantial funds of €80 billion, the H2020 programme has been the centrepiece of the EU’s scientific and research activity for the period 2014–20. The areas eligible for
project funding by H2020 cover both natural and social sciences, as shown in Table 27.1.

Table 27.1 Main thematic priorities of Horizon 2020

<table>
<thead>
<tr>
<th>Excellent science</th>
<th>Industrial leadership</th>
<th>Societal challenges</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Research Council (ERC)</td>
<td>Leadership in enabling and industrial technologies (LEITs): nanotechnologies, materials, biotechnology, manufacturing, ICT and space</td>
<td>Health and demographic change</td>
</tr>
<tr>
<td>Future and emerging technologies</td>
<td>Access to risk finance</td>
<td>Food security, sustainable agriculture and marine research</td>
</tr>
<tr>
<td>Marie Skłodowska-Curie Actions, career development</td>
<td>Innovation in SMEs</td>
<td>Energy, transport and climate action</td>
</tr>
<tr>
<td>Research infrastructure (including e-infrastructure)</td>
<td></td>
<td>Europe in a changing world; protecting freedom and security</td>
</tr>
</tbody>
</table>

Moldova participated in Framework Programme 7 (FP7) for research and development, the predecessor to H2020, between January 2012 and 2014. Through this cooperation, Moldova received total funding of €3.75 million (compared with its financial contribution of €1.4 million).

The following projects were among those securing financial support from FP7:

- ICT R&D policy dialogue between Eastern Europe and Central Asia
- evaluation of the demographic trends in CIS countries
- High-Performance Computing Infrastructure in South East Europe
- consolidation of human potential and technological infrastructure
- product quality (NUTRILAB)
- water-related research (WaterWorks2014).
As part of efforts to strengthen scientific research cooperation, the Moldovan Office for Science and Technology was created in October 2012. The office is located in Brussels and was coordinated by the Academy of Sciences of Moldova through its auxiliary public institution, the Centre of International Projects, until February 2018. The newly created National Agency for Research and Development is the successor of the Centre, continuing to host the organisation for the Moldovan FP7/H2020 National Contact Points Network. To encourage greater participation in H2020, Moldova plans to boost the H2020 National Contact Network, and set up training programmes in proposal preparation and project administration. In 2017, the National Contact Points organised consultations concerning the information about the ongoing project calls. Similar informative consultations for 2018–20 projects were launched in 2018.

The Academy of Sciences has launched several programmes to foster the participation of R&D institutions and the non-governmental sector in H2020. These include the programme on the Connection of the Moldovan Centres of Excellence to the EU Research Infrastructure, which seeks to connect the Moldovan research centres to the thematic Pan-European Research Infrastructure, such as the European Scientific Forum for Research Infrastructure (ESFRI), the European Research Infrastructure Consortia (ERICs) and the European Technology Platforms (ETPs). Another programme helps increase the mobility of Moldovan researchers by providing mini-grants to support their participation in the H2020 networks. To encourage the participants who submitted eligible proposals to H2020, the Academy launched the European BONUS Programme, with the last call registered in December 2016, and which aimed to increase mobility and networking with the European research community.

Moldovan researchers interested in finding research-related jobs and services in European research centres can access the platform EURAXESS - Researchers in Motion. They can also create their own profiles on the H2020 platform.

The official page of H2020 currently has a database citing 28 institutions from Moldova (universities, state agencies, institutes and laboratories). Between 2014 and 2019, Moldova registered 880 participants, winning 44 grants worth €5.9 million. The biggest
share of the EU funds went to research organisations (38.6%), followed by high education institutions (23.9%), private entities (12.1%) and the public sector (3%).

During 2014–18, Moldovan applicants submitted 322 project proposals. Of 268 eligible entries only 32 were retained. However, these retention rates are similar to those of Georgia and Ukraine (see Table 27.2), and in the EU itself the Success Rate – the ratio of retained proposals in the total number of eligible proposals – is highly competitive. The highest number of projects were proposed in three thematic areas: Europe in a changing world, Marie Skłodowska-Curie Actions, and secure, clean and sufficient energy, etc. The most successful projects were for Marie Skłodowska-Curie Actions (six projects and 12% Success Rate) and climate action, environment, resource efficiency and raw materials (seven projects and 32% Success Rate). The low competitiveness of the national research system of Moldova was discussed during the 7th meeting of the Eastern Partnership (EaP) Panel on Research and Innovation in December 2019.

Table 27.2 Horizon 2020 data on proposals for Moldova, Ukraine and Georgia

<table>
<thead>
<tr>
<th></th>
<th>Total submitted</th>
<th>Eligible proposals</th>
<th>Retained projects</th>
<th>Requested amount (€ mn)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Moldova</strong></td>
<td>322</td>
<td>268</td>
<td>32</td>
<td>69.4</td>
</tr>
<tr>
<td><strong>Ukraine</strong></td>
<td>1276</td>
<td>986</td>
<td>94</td>
<td>344.5</td>
</tr>
<tr>
<td><strong>Georgia</strong></td>
<td>224</td>
<td>187</td>
<td>21</td>
<td>34</td>
</tr>
</tbody>
</table>

With the revision of the 2004 Code on science and innovation, initiated in 2017 amid the restructuring of the governmental institutions, the Academy of Sciences’ competences for innovation funds are to be transferred to the newly created National Agency for Research and Development. Under the same reform, 19 research institutions subordinated to the Academy were moved to the restructured Ministry of Education, Culture and Research. This creates uncertainty about the institution that will coordinate the funds allocated on behalf of Moldova under H2020.
New EU legislation and policies

Post-2020, the European Commission will carry out the successor of H2020 – now called simply ‘Horizon Europe’. According to the Commission’s proposal, there will be changes in the fees for participation as well as in the number of associated countries. In particular, the participation fee for Horizon Europe will no longer be proportional to the GDP of participating countries. Instead, it will be based on the ‘pay as you go’ principle, i.e. based on the contributions and benefits of each associated country in the previous year. The contributions and benefits will be closely monitored and will be revised every two years.

The geographical reach of the new Horizon Europe will bring on board all third countries beyond the EU neighbourhood that express interest in participation. For instance, Canada, Japan, Australia, South Africa and New Zealand have expressed their interest in Horizon Europe based on their partial association. For the Association Agreement countries this will mean higher competition for available funds. Thus, developing a strong research infrastructure will be key for the three states to benefit from Horizon Europe.

According to the European Commission’s Communication on the new EaP beyond 2020, cooperation in research and Horizon Europe fall in the first priority area, which aims for job creation and economic growth.

With the outbreak of Covid-19, EU leaders have expressed their commitment to support research and to coordinate efforts in this field both within the EU and worldwide. In the ERA framework, this resulted in setting up the first ERAvsCorona Action Plan in April 2020. The plan covers the 10 priority actions for coordinated research and innovation, including research and innovation funding, clinical management, increasing support to innovative companies, establishing an ad hoc high-level research and innovation Task Force on the coronavirus with medium- and long-term priorities, access to research infrastructures, and creating a European data exchange platform for coronavirus-related information exchange (the Hackathon project).

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Since January 2020, the Commission has mobilised €547 million to develop vaccines, new treatments, diagnostic tests and medical systems to prevent the spread of the coronavirus. The importance of research was also reflected in the upgrading of the budget for Horizon Europe in the new Multiannual Financial Framework (MFF) to €94.4 billion. The enlarged funds will increase the EU’s support for health- and climate-related research and innovation activities.

A significant focus of the EU consists of addressing research towards the greatest policy priorities, such as the Green Deal. In this regard, the EU plans to offer financial support for the participation of the EaP countries in the H2020 Green Deal call for projects that started in September 2020.

**Future developments sought by Moldova.** In its contribution to the EaP structured consultation Moldova expressed its interest in integrating into the ERA. The EU plans to strengthen the ERA within the 2021–27 MFF through the new Horizon Europe programme.

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**Science and technology at a glance**

In accordance with the Association Agreement, Moldova has been a participant in the EU’s main research programme, Horizon 2020, since 2014.

Moldova has strengths in the IT field and its current research projects cover various areas such as demography and product quality.

The financial system for the associated states will change under the new Horizon programme, to avoid countries like Moldova being net contributors, as has happened in the past.

The major challenge for Moldova is to strengthen the institutional capacities of its research community (in proposal preparation, submission, project administration, etc.), given the tough competition from other countries participating in the Horizon programme, including Ukraine and Georgia.

The low competitiveness of the Moldovan academic and research community could hinder its access to EU funds, in particular with the opening of the new Horizon Europe to non-European states with high intellectual capital (e.g. Canada, Japan and New Zealand).

New EU policy priorities such as the Green Deal, together with the challenges provoked by Covid-19, has meant available research funds have been reoriented towards the EaP countries, including Moldova.
In early 2020, as Covid-19 spread from China to the rest of the world, the importance of public health and strong prevention mechanisms to fight the virus on the European continent became apparent. This chapter outlines the main provisions of the Association Agreement on public health pre-Covid-19 and briefly reviews the progress of Moldova’s implementation. It also summarises the response to the Covid-19 pandemic of both the EU and Moldova.

**Provisions of the Agreement**

Chapter 28 on public health states that the Parties agree to cooperate in the field of public health. Raising the level of public health is acknowledged as an essential component for sustainable development and economic growth. The four articles in the chapter outline that the cooperation between the EU and Moldova shall cover strengthening the public health system by implementing health sector reform, ensuring high-quality healthcare, health governance and healthcare financing, epidemiological surveillance, control of communicable and non-communicable diseases and increased preparedness for public health threats and emergencies. The provisions of the chapter also state that Moldova should effectively implement international health agreements such as the International Health Regulations and the Framework Convention on Tobacco Control of 2003.

These articles are roughly the same in the three Agreements, with the addition in the EU-Moldova Agreement of a provision on
the progressive integration of the Republic of Moldova into the EU's health-related networks and enhancement of the cooperation with the European Centre for Disease Prevention and Control (ECDC).

In line with these provisions, Annex XIII details the EU legislation that Moldova is committed to adopting. The commitments refer to tobacco, communicable and non-communicable diseases, human blood, organs, cells and tissues, mental health and cancer.

Moldova is committed to adopt EU legislation concerning the manufacturing, presentation and sale of tobacco (Directive 2001/37/EC) within seven years of the entry into force of the Agreement. Other commitments refer to the EU laws on the advertising and sponsorship of tobacco products (Directive 2003/33/EC, in force) to be adopted within three years of the enactment of the Agreement and several Council recommendations without timeframes on the prevention of smoking and protecting citizens against exposure to tobacco via smoke-free environments (Council Recommendations 2003/54/EC and 2009/C 296/02).

The section on communicable diseases obliges Moldova to adopt several decisions on the setting up of a network for the epidemiological surveillance and control of communicable diseases (Decision No 2119/98/EC, Decision 2000/96/EC, Decision 2002/253/EC) within seven years of the entry into force of the Agreement. Another commitment in this section refers to Decision 2000/57/EC on an early warning and response system (EWRS) for the prevention and control of communicable diseases to be adopted within seven years after the entry into force of the Agreement. The Directive obliges the parties to deliver rapid alert notification on serious cross-border threats to health.¹


¹ See https://bit.ly/3hNtZdU.
commitments, all legal acts detailed in the Annex on human blood, organs, tissues and cells are still in force at the EU level.

The Annex on public health also covers several Council Recommendations on mental health, including prevention and reduction of health-related harm associated with drug dependence (2003/488/EC) and drinking alcohol by young people (2001/458/EC), cancer screening (2003/878/EC) and prevention of injury and promotion of safety (2007/C 164/01). All these recommendations are detailed without timeframes.

**New EU legislation and policies**

Many of the EU laws included in Annex XIII are already outdated as the EU has updated its legislation on public health in most of the areas covered by the Agreement.

Regarding tobacco, Directive 2001/37/EC included in the Annex is no longer in force as it is repealed by Directive 2014/40/EU, which sets stricter rules across the EU by making tobacco products less appealing, particularly to young people. The three legal acts on communicable diseases are also repealed by the newer EU rules, Decision No 1082/2013/EU repealing Decision No 2119/98/EC, and the implementing Decision (EU) 2018/945 repealing Decision 2000/96/EC and Decision 2002/253/EC. Putting in place the new legislation across the EU was motivated by the emergence of new infections including the severe acute respiratory syndrome (SARS) epidemic in 2003, the influenza pandemic (H1N1) in 2009, the Ebola virus in 2014, and the Zika virus outbreak in 2016. The new legislation updates rules on epidemiological surveillance, monitoring, early warning and combating serious cross-border threats to health and ensures faster and more effective coordination and cooperation between the member states of the EU.

Otherwise, all legal acts detailed in the Annex on an EWRS, human blood, organs, tissues and cells, are still in force at the EU level. For the time being Moldova is holding discussions with the EU on potential updates in Annex XIII.

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EU response to Covid-19

On 2 March 2020, early on in the coronavirus outbreak in Europe, the president of the European Commission Ursula von der Leyen, along with five commissioners, established a coronavirus response team. This operates across three pillars: the first covers the medical field, including prevention, procurement and relief measures and foresight; the second refers to mobility, transportation and travel advice, as well as Schengen-related issues; and the third covers the economy, including tourism, transport and trade.³

To address the public health issues, the EU has activated the Emergency Support Instrument (ESI) and created a strategic ‘RescEU’⁴ medical stockpile and distribution mechanism under the umbrella of the EU Civil Protection Mechanism. The ESI was activated on the principle of solidarity in April 2020.⁵ This enabled the EU budget to step in to provide emergency support to the Union as a whole to address the human and economic consequences of the pandemic. In practice, through the ESI, the Commission can procure directly on behalf of the member states, and finance and coordinate transport of medical equipment and patients across borders. By creating RescEU, the Commission mobilised a common stockpile of equipment, from personal protective equipment (PPE) to ventilators, vaccines and therapeutics. The two initiatives of the Commission were equally funded by the EU budget (€3 billion) and member states (€3 billion).⁶

The Commission also accelerated recovery from the pandemic on May 27 by putting forward a €2.4 trillion recovery plan. The plan will be funded from the EU budget for 2021–27 (€1.1 trillion) and a new recovery instrument ‘Next Generation EU’ (NGEU), which will raise €750 billion on the financial markets for 2021–24.⁷

As part of its global response to the coronavirus outbreak, the Commission joined forces with its global partners via the

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³ See https://bit.ly/3u45AU0.
⁷ See https://ec.europa.eu/commission/presscorner/detail/en/ip_20_940
Coronavirus Global Response pledging conference, launched on 4 May 2020. The conference raised €9.8 billion from international donors, including €1.4 billion from the Commission, to support universal access to coronavirus treatments, tests and vaccines worldwide.\textsuperscript{8}

On April 8, to help partner countries in tackling short- and long-term effects of the pandemic, the Commission combined resources from the EU budget, EU member states and international financial institutions into a ‘Team Europe’ package.\textsuperscript{9} This included emergency support to the Eastern Partnership (EaP) countries of up to €962 million.\textsuperscript{10}

Moldova benefited within this framework with bilateral support from the EU of €87 million, mobilised by repurposing existing EU funds committed to Moldova. The funds will be targeted to address immediate needs such as supporting the health sector and the most vulnerable groups in society as well as medium-term goals to limit the social and economic impact of pandemic. The EU has reoriented its budget support to help Moldova acquire medical supplies and equipment, and to assist the socially vulnerable categories. In this regard, the EU has opened a credit line of €100 million, available between 2020–21, to address the consequences of the Covid-19 pandemic.

**Implementation perspectives**

One of the most important issues to be highlighted with regard to implementation progression on ‘Public Health’ commitments is that most of them imply complex cross-sectorial actions, with deep fiscal implications and further institutional reform, most of which do not have a fixed timeline and are subject to substantial political influence. These commitments include the issues that cover tobacco, communicable and non-communicable diseases, human blood, organs, cells and tissues, mental health and cancer. The legal approximation for public health involves several public authorities (Ministry of Health Labour and Social Protection, Ministry of

\textsuperscript{8} See https://global-response.europa.eu/index_en.

\textsuperscript{9} See https://bit.ly/33Xt42E.

\textsuperscript{10} See https://bit.ly/2Qzp0Cy.
Agriculture, Regional Development and Ecology, Ministry of Economy and Infrastructure, Ministry of Finance and others). Each of these institutions has different regulatory powers with respect to different aspects of public health, with some of the activities overlapping. Without a clear identification of responsibilities the legal approximation is slow. The detected shortcomings refer to the lack of communication and information.\textsuperscript{11} Thus, the progress made in each area of intervention specified in Annex XIII of the Association Agreement are fragmentary or outdated.

The best progress registered until now constitutes the efforts of translating and adopting the equivalent of the newest provisions of the EU legislation concerning the manufacturing, presentation and sale of tobacco. This also entails the commitments on the advertising and sponsorship of tobacco products and several recommendations on the prevention of smoking and protecting citizens against exposure to tobacco via smoke-free environments.

In line with the provisions of Art. 114 of the Association Agreement, Moldova has fully and promptly implemented the WHO Framework Convention on Tobacco Control of 2003 by adopting Law No 124/2015 (Official Gazette/Monitorul Oficial no.185–189 art.374 of 17.07.2015). This legal act operated amendments to Law No 278/2007 establishing regulations, including for advertising, promotion and sponsorship of tobacco products, related products, devices and accessories use, recharging or heating. As part of these commitments, Moldova plans to increase the value of excise duties up to €90 per 1,000 cigarettes by 2025.\textsuperscript{12}

The section on communicable diseases obliges Moldova to adopt several decisions on the setting up of a network for the epidemiological surveillance and control of communicable diseases

\textsuperscript{11} See https://bit.ly/2QyAndW.

\textsuperscript{12} The fiscal policy adopted for 2020 provides for a quota of excise duties on filtered and unfiltered cigarettes at least 700 Moldovan lei (MDL) (MDL 540 + 13\%) per 1,000 cigarettes, as well as MDL 700 for 1,000 units of tobacco reserves for tobacco heating devices (hereinafter ‘tobacco reserves’). After equalising the level of excise duties on filter cigarettes, unfiltered cigarettes and tobacco stocks in 2020, it is imperative that the level of excise duties increases. At the moment, the MDL 700 pre-established per 1,000 cigarettes/tobacco reserves for 2020 is about €35, so to reach the quota of €90 per 1,000 cigarettes by 2025, the excise tax must increase by €11 annually. Herein lies the problem: the extreme lobby on the fiscal policies from the influential tobacco producers/retailers is making that number very difficult to reach.
PART III. ECONOMIC COOPERATION

(Decision No. 2119/98/EC, Decision 2000/96/EC, Decision 2002/253/EC) within seven years of the entry into force of the Agreement. Another commitment in this section refers to Decision 2000/57/EC on an EWRS for the prevention and control of communicable diseases to be adopted within seven years after the entry into force of the Agreement. The Directive obliges the parties to deliver rapid alert notification on the serious cross-border threats to health.\(^\text{13}\) As a result, Moldova has access to two Epidemic Intelligence Information System (EPIS) platforms: the Food and Waterborne Diseases and Zoonosis (FWD) and the European Legionnaires’ Disease Surveillance Network (ELDSNet), which ensure risk assessment and communication to the authorities in charge of risk management across the 30 EU/EEA countries and 25 non-EU countries, including Georgia and Ukraine.


- Government Decision No 386, 14-05-2010 on the establishment of the Agency of Transplant that re-evaluates the institutional framework in the field and establishes a clearer stakeholder framework, especially with regard to establishing proper biovigilance systems at the national and institutional level;
- Order of Ministry of Health No 234, 24-03-2011 on organisation and performance of human tissues, organs and cells procurement and transplant activities.

As part of the advancement in the field, the Moldovan Transplant Agency adhered to GAPP Joint Action (JA) in 2019. The GAPP project aims to facilitate a common and optimal approach to


assessing and authorising preparation processes in blood and tissues establishments (BEs and TEs), by adapting requirements as prescribed by Article 29 of Directive 2002/98/EC and Article 28 of Directive 2004/23/EC. Moldova, together with 18 other European countries, is working with representatives from competent authorities (CA) and scientific societies to configure European Recommendations for optimal preparation of blood, tissues and cells for therapeutic application. European organisations will also contribute their scientific experience to GAPP.\textsuperscript{15}

The Annex on public health also covers several Council Recommendations on mental health, an area that remains virtually uncovered in the national legal framework. To prevent and reduce health-related harm associated with drug dependence (Directive 2003/488/EC), the National Anti-Drug Strategy 2020-2027 and the National Anti-Drug Action Plan for 2020-2021 were adopted. The Strategy introduces cost-effective methods that reduce the incarceration rate for minor offences and contribute to the social reintegration of drug users. It also stipulates the need for more active involvement of civil society in the process of preventing and suppressing illicit drug trafficking.

Moldova has addressed the subject of young people drinking alcohol (Council Recommendation 2001/458/EC) with a very complex exercise\textsuperscript{16} targeting the production and the market placement, commercial regime and advertising rules of alcoholic beverages. Unfortunately, lack of funding has stalled measures such as prevention and mitigation of the consequences. Since 2012, the resources allocated for the implementation of the Alcohol Control Programme have been scarce in Moldova,\textsuperscript{17} and there is significant dependence on donor-funded programmes.

The recommendation on cancer screening (2003/878/EC) has been addressed in the National Control Programme on Cancer (2016-2025).\textsuperscript{18} Vast screening programmes for breast and cervical cancer have been in place since 2019, with informational campaigns underway. Nonetheless, these efforts are currently hindered by

\textsuperscript{15} See https://bit.ly/2S5EBdv.
\textsuperscript{16} See https://bit.ly/2RBelYD.
\textsuperscript{17} See https://www.ncbi.nlm.nih.gov/books/NBK536185/.
\textsuperscript{18} See https://gov.md/sites/default/files/document/attachments/intr06_90.pdf.
inadequate funding, insufficient institutional coordination and the urgent need for specialised medical services.

As pointed out in the Agreement, Moldova cooperates with the ECDC, the EU agency established in 2005 to strengthen Europe's defences against infectious diseases.\textsuperscript{19} So far, the ECDC has offered its expertise to Moldova by providing training and taking the first steps towards institutionalising cooperation by designating national ECDC correspondents and national contact points in these countries.

The ECDC also conducted assessments in 2014 that evaluated the strengths and weaknesses of the national systems for the prevention and control of communicable diseases and formulated recommendations to support ongoing national reforms in Moldova.\textsuperscript{20} The cooperation has resulted in the adoption of the Health 2020 Strategy with the launch of a series of actions to strengthen the public health sector. This marks a change in the vision and concept of how the control of communicable and non-communicable diseases is addressed.

The collaboration with ECDC allows cooperation in the surveillance of communicable diseases, including tuberculosis and HIV/AIDS, preparation for public health emergency management by the development of structured action plans, standardised data collection system, and control and morbidity prevention.\textsuperscript{21} The main instrument through which this training is provided is TAIEX, which organised 45 training sessions on capacity building and consulting in 2019. Three sessions covered environmental and public health tracking (EPHT). These included capacity improvement, rabies and cancer monitoring, study visits to learn about organisation and the development of hematopoietic stem cells transplantation and monitoring the field of reproductive medicine. During the first stages of the pandemic, the WHO and the ECDC conducted 132 training sessions on infection prevention and control, as well as public health emergency management for health


\textsuperscript{21} See https://bit.ly/3oGOXNi.
professionals from Moldova. Moreover, the national network of epidemiologists provided evidence to the WHO and the ECDC.\textsuperscript{22}

**Moldova’s response to Covid-19**

On March 7, 2020, Moldova reported its first confirmed case of Covid-19 within its borders. On 17 March 2020, as the number of infections started to rise, the Parliament declared a state of emergency for the entire territory of the Republic of Moldova for a period of 60 days (17 March – 15 May 2020). On 18 March 2020 the first death caused by Covid-19 was registered. On 23 March 2020 the total number of confirmed cases surpassed 100; by 7 April 2020 this number had exceeded 1,000. By 10 April 2020, cases had been confirmed in all the regions of the country, including the Transnistrian region. By 27 April 2020, over 100 people had died.

On 15 May 2020, the last day of the state of emergency declared by the Parliament, the Extraordinary National Commission of Public Health declared a state of emergency in public health for all national territories for the period of 16 May – 30 June 2020. On 9 June 2020, the total number of confirmed cases surpassed 10,000. By 20 September 2020, there were 46,596 confirmed cases registered in the country, out of which 34,636 patients recovered and 1,203 died.

The health crisis has once more highlighted the shortcomings of the Government’s strategic capacity in managing and mitigating crises, from the lack of communication and coordination between relevant institutions and the Extraordinary National Commission of Public Health, to the failure to mobilise resources and adapt existing financial instruments towards Covid-19 crisis management. At the same time, despite the negative effects of the pandemic, the latter has become the catalyst for a new openness towards external and development partners of the Republic of Moldova.\textsuperscript{23}

Despite the many systemic failures, the medical sector has nevertheless demonstrated skills and abilities in treating the infected population, with the external assistance of WHO, the EU and its member states (Romania, Poland, Hungary, etc), NATO,

\textsuperscript{22} See https://bit.ly/3v5A3SR.

China, Russia and the US. The World Bank has also launched the Moldova Emergency Covid-19 Response Project (€59 million), which seeks to strengthen the national healthcare system and mitigate social risks.24

Political and disinformation campaigns were able to dominate the information field because of the state’s low level of preparedness for crisis situations, and the inability of the authorities to appropriately communicate. Countless cases of muddled communication by the Extraordinary National Commission of Public Health at the start of the pandemic led to inefficient actions by central and local authorities. To avoid this being repeated, the following crisis management failures should be addressed:

- insufficient and belatedly activated technical endowment,
- rigid internal organisation and cumbersome or underdeveloped procedures, affected by politicisation,
- fragmented coordination of public and private medical efforts in the field of testing.

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Public health at a glance

Many of Moldova’s commitments in public health are already outdated as the EU has updated its legislation in most of the areas covered by the Agreement.

Moldova has benefited from several activities provided by the European Centre for Disease Prevention and Control (ECDC) and the Epidemic Intelligence Information System (EPIS). However, the country has only limited access to the platforms and programmes provided by these two EU bodies.

During the pandemic, the EU and its international partners have successfully mobilised emergency support funds for Moldova. This health crisis has shown the deep lack of capacity and understanding in crisis management and mitigation for an event of this scale. Future efforts should concentrate on identifying best responses and alleviating consequences in the event of other likely shocks from e.g. drastic climatic conditions, impaired agri-food production, limited drinking water resources, energy security and hybrid threats (involving external forces) or through the Transnistrian separatist region.\(^{25}\)

\(^{25}\) Idem.
29. EU AGENCIES AND PROGRAMMES

The EU funds and oversees as many as 46 ‘agencies’. These are semi-autonomous and specialised bodies that support the functioning of EU policies. There are also around 45 ‘programmes’, most of which (but not all) are funded and administered as integral parts of the EU institutions (mostly but not all in the European Commission). A considerable number of these (20 agencies and 19 programmes) are open to Moldova to participate in as a partner under the Association Agreement. Boxes 29.1 and 29.2 list these, and those with which Moldova already has ongoing cooperation at different levels (e.g. projects, seminars and study visits) are highlighted in bold.

Box 29.1 EU agencies open to Ukraine, Moldova and Georgia*

| European Agency for Safety and Health at Work (EU-OSHA) |
| European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) |
| European Asylum Support Office (EASO) |
| European Aviation Safety Agency (EASA) |
| European Centre for Disease Prevention and Control (ECDC) |
| European Chemicals Agency (ECHA) |
| European Defence Agency (EDA) |
| European Environment Agency (EEA) |
| European Fisheries Control Agency (EFCA) |
European Food Safety Authority (EFSA)
European Foundation for the Improvement of Living and Working Conditions (EUROFOUND)
European GNSS Agency (GSA)
European Institute for Gender Equality (EIGE)
European Maritime Safety Agency (EMSA)
European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)
European Network and Information Security Agency (ENISA)
European Police College (CEPOL)
European Police Office (Europol)
European Union Institute for Security Studies (EUISS)
The European Union’s Judicial Cooperation Unit (Eurojust)

* Bold text denotes agencies with which Moldova already has ongoing cooperation

Box 29.2 EU programmes open to Ukraine, Moldova and Georgia*

Asylum, Migration and Integration Fund
Copernicus, European Earth Observation Programme
Competitiveness of Enterprises and SMEs (COSME)
Creative Europe, Programme for the cultural and creative sectors
Customs 2020
Erasmus+
European Maritime and Fisheries Fund
European Statistical Programme
European Territorial Cooperation
Fiscalis 2020 (tax administration support)
Galileo and EGNOS Programmes, global satellite navigation system

Health for Growth
Hercule III anti-fraud programme

Horizon 2020 (H2020)
Internal Security Fund
Life Programme
Environment and climate change
Pericles 2020, programme for the protection of the euro against counterfeiting
SESAR JU on modernisation of air traffic management
European Union Civil Protection Mechanism

* Bold text denotes programmes with which Moldova already has ongoing cooperation
Such participation offers a useful means of in-depth integration of professional experts and administrative organisations with EU counterparts, and aids reform processes.

Membership of an agency requires negotiation of a specific international agreement, and a decision on the financial contribution of the partner. Participation in a programme is carried out on the basis of a protocol or specific MoU stating the details of participation. The participation of Moldova in these EU agencies and programmes is subject to regular dialogue and review.

Membership of the agencies and inclusion in programmes gives full access to the infrastructure and governing bodies, but also involves costs. To ease the financial burdens on Moldova, the EU can negotiate temporary rebates. Moldova is also able to pay up to 50% of membership fees from EU aid funds. The process of participating in various programmes, such as in research projects under Horizon 2020 (H2020), can be extremely competitive, but Moldovan institutes will normally be joining consortia and counterparts in EU member states in these initiatives.

**Agencies**

Moldova has ongoing cooperation at different levels (projects, participation in seminars, study visits, etc.) with the following agencies:

**European Aviation Safety Agency (EASA).** Cooperation between Moldova and the EASA reflects a shared interest in a high level of civil aviation safety and environmental compatibility. Moldova has had a Working Arrangement with the EASA since 2014.

**European Maritime Safety Agency (EMSA).** The cooperation between Moldova and the EMSA seeks to ensure a high, uniform and effective level of maritime safety and security, and to prevent and respond to sea pollution. EMSA organises training seminars and supports analysis, research and other projects that envisage the protection of the environment, port control, vessel traffic management and state flag control.

**European Fisheries Control Agency (EFCA).** In the framework of the multilateral cooperation on fisheries in the Black Sea, EFCA is providing support for capacity building of fisheries inspectors.
European Agency for Safety and Health at Work (EU-OSHA). Moldova is in the process of developing frameworks to improve workplace health and safety. Cooperation with the EU-OSHA follows from the obligations in the Association Agreement to bring its legislation in this field in line with EU directives.

European Defence Agency (EDA). There is significant potential to cooperate between Moldova and EDA, although this has not yet been reflected in practice. The government is currently considering specific opportunities for mutually beneficial cooperation with the Agency.

European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Moldova is eligible to benefit from EU4MonitoringDrugs project (EU4MD), launched by the EMCDDA in January 2019, with an initial duration of three years. The project aims to strengthen cooperation and share expertise with the European Neighbourhood Policy (ENP) countries. EU4MD has a budget of €3 million. In practical terms, it supports the development of readiness in the area of drug-related and health security, establishing partnerships and networks and fortifying evidence-based practices.

European Police College (CEPOL). CEPOL is an EU agency that provides training to law enforcement officers, and takes place through a network of police training colleges. Moldova cooperates with CEPOL under a 2012 Working Agreement, which allows for the exchange of practices, but also educational opportunities for Moldovan participants. Thus, along with the Western Balkans, Moldova was part of the training on the application of the ‘joint investigation teams’ mechanisms. The training was organised in September 2019 and conducted by CEPOL’s educational partner, the European Law Academy, in Germany.

European Union’s Judicial Cooperation Unit (Eurojust). Moldova concluded a cooperation agreement with Eurojust in 2014. The Agency has had a contact point in Moldova since 2007, before the EaP was launched and the Association Agreement was signed. The agreement facilitates a close cooperation in combating serious crimes such as organised crime and terrorism, and on exchange of operational information (personal data). The agreement also provides for the delegating of a liaison prosecutor on reciprocal
principle. In 2019, Moldova was invited to participate in 13 cases opened by Eurojust, four times less than Ukraine’s 52.

**European Agency for the Management of Operational Cooperation at the External Borders (Frontex).** Moldova and Frontex have a cooperation plan for 2018–20, which derives from a 2008 Working Arrangement. The cooperation plan specifies as objectives the exchange of information on migration and cross-border crime. Based on the cooperation arrangements, Frontex delivers technical assistance, including training programmes for the Moldovan border guards that cover detection of false documents, return operations and the fight against human trafficking.

**European Environment Agency (EEA).** Moldova is not on the list of cooperating countries, unlike other associated countries such as the western Balkan countries. Nevertheless, Moldova participates with the EEA in the implementation of the Shared Environmental Information System (SEIS). Moldova participated in SEIS between 2009–15, with an EU-funded project that involved all 16 ENP partners, including the EaP countries.

**European Centre for Disease Prevention and Control (ECDC).** This EU agency was established in 2005 to strengthen Europe’s defences against infectious diseases (see Chapter 28) and has proved to be of critical importance since the outbreak of Covid-19. Moldova, as an ENP country, falls into the second priority group of the ECDC’s international cooperation, together with Georgia and Ukraine. In this framework the ECDC offered its expertise to Moldova by providing training and taking the first steps to institutionalise the cooperation by the designation of national ECDC correspondents and national contact points in these countries. Moldovan epidemiologists and public health practitioners have been taking part as external participants in the EU neighbourhood (‘MediPIET’) training modules. Moldova also has partial access to the Epidemic Intelligence Information System (EPIS), a web-based communication platform which ensures effective information-sharing among the participating public health authorities (see more in Chapter 28 on public health).

**European Network and Information Security Agency (ENISA).** ENISA was established in 2004 to ensure cybersecurity across Europe (see Chapter 20). The Moldova Computer Emergency Team is not yet a member of the EU’s network of computer security
incident response teams (CSIRTs) and Moldova is not involved in ENISA’s programmes and activities. In its contribution to the EaP-structured consultation Moldova expressed its interest in deepening cooperation with the European Cybercrime Training and Education Group, ENISA, EEAS and the European Commission cybersecurity teams.

**European Centre of Excellence for Countering Hybrid Threats (Hybrid CoE).** This was set up in Helsinki in 2017 (see Chapter 20). Like Ukraine and Georgia, Moldova is not a member of the Hybrid CoE, despite facing serious disinformation challenges. Hybrid CoE only unites, in diverse formats, countries with membership of the EU and NATO.

**European Police Office (Europol).** Based in the Hague, Europol organises cooperation with the law enforcement agencies in the EU member states to prevent and fight organised crime and terrorism. Moldova and Europol, on behalf of the EU, signed a strategic cooperation agreement in December 2014. The agreement seeks to enhance the cooperation in the field of preventing, detecting and investigating serious forms of transnational crimes such as drug trafficking, money-laundering activities, people smuggling and human trafficking. The Moldovan Ministry of Internal Affairs represents the National Contact Point. Europol has reported on successful cooperation between Moldovan law enforcement agencies and their partners in the EU member states (Germany and France), leading to the cessation of various crimes such as drug trafficking and burglaries.

**EU Civil Protection Mechanism.** This represents a platform of cooperation between the EU member states and six participating states (Western Balkans). However, this mechanism can also benefit, to a certain degree, the associated countries, including Moldova. Moldova signed an administrative arrangement to cooperate within the Mechanism in 2012. This expanded the cooperation in disaster prevention and emergency response and complemented Moldova’s participation in the EU’s Prevention Preparedness and Response to Natural and Man-Made Disasters Programmes 1 and 2, of 2011 and 2014 respectively. Moldova had already benefited from the Mechanism even before signing the arrangement, during the 2008

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1 See https://ec.europa.eu/neighbourhood-enlargement/tenders/consultation_eap_en.
and 2010 floods and the 2009 gas shortage. Medical support was also provided via the Mechanism in the early stages of the Covid-19 pandemic, for example deliveries of Polish disinfectants and PPE, or the co-financing of in-kind deliveries of PPE.

The European Training Foundation (ETF). This helps Moldova in capacity development for stakeholders in the vocational education and training (VET) dialogue at national and sector levels. It also supports the EU delegation in its actions on employment and VET enforcement.

Programmes

The Moldovan authorities have completed the legislative procedures for joining H2020 for research and innovation (2014–20). Details of Moldova’s participation in H2020 are given in Chapter 27 on science. Moldova also benefits from the EU programmes set up for the EaP region: EU4Business and EU4Digital.

EU4Business. EU4Business is an umbrella initiative that covers all EU activities supporting SMEs in the EaP countries. Up to date, EU4Business includes 43 projects in the EaP region, implemented both on a regional and bilateral level. The overall EU support amounts to almost €320 million, which has triggered more than €1.96 billion of loans granted by partner banks to SMEs in the region. Since the outbreak of Covid-19, EU4Business has been actively providing information and advice about the EU support measures to SMEs in Moldova to help them withstand the crisis.

EU4Digital. EU4Digital is the EU’s largest support programme in the digital sector for the EaP countries. It was set up in 2019 with a budget of €11 million (see Chapter 19). Moldova benefits from programmes and projects launched by EU4Digital that support the country to develop necessary legislative and regulatory frameworks for the development of the digital economy and society.

Moldova became the first country from the EaP to join the programme on competitiveness for SMEs (COSME 2020).

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2 The agreement on participation in Horizon 2020 was ratified through Law No. 142 of 17 July 2014.
3 The Agreement for participation in COSME was ratified through Law No. 21 of 27 February 2015.
Moldova has also joined the Creative Europe programme, which aims to support the cultural and creative sectors for which the Ministry of Culture is responsible. In this context, the Creative Europe Desk was established in Chişinău to conduct training courses, seminars and consultations related to culture.

As detailed in Chapter 26 on education, Moldova participated actively in the 2014–20 Erasmus+ programme. Various projects involving universities, schools and teachers from Moldova are implemented through the Jean Monnet Programme, Tempus and eTwinning (the Community for Schools in Europe).

Moldova also joined the (multiannual) Third EU Action Programme on Health for economic development, meant to coordinate health policies in these areas.

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**EU agencies and programmes at a glance**

There are extensive opportunities for inclusion in EU agencies and programmes, with the potential to develop institutional capabilities and advance policy reforms.

Moldova is taking up a considerable number of the opportunities that relate to important aspects of the country’s modernisation and integration with Europe, for example on health and safety standards, policing and justice, digital economy, cybersecurity, research, education and culture.

The Covid-19 pandemic has emphasised the benefits of Moldova’s participation in the EU’s mechanisms and agencies.

The EU offers financial assistance towards the costs of participation, while the agencies provide the necessary technical assistance.

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4 The Agreement for participation in Creative Europe was ratified through Law No. 60 of 9 April 2015.

5 See the Ministry of Foreign Affairs and European Integration.

6 See the Ministry of Foreign Affairs and European Integration.

7 Horizon 2020 and Erasmus+ are dealt with in more detail in Chapter 27 on science and Chapter 26 on education.
30. CROSS-BORDER COOPERATION

Moldova’s borders with Romania and Ukraine offer important opportunities for enhanced cooperation at the regional level. The Association Agreement calls for cross-border cooperation in general terms, and in specific sectors such as transport, energy, education, tourism and health. The EU offers substantial funding for projects, notably through land border programmes between regions in Moldova, Romania and Ukraine, which have three rather general priority areas: increasing competitiveness, facing environmental challenges, and people-to-people cooperation.

Since 2007, the EU has spent over €1 billion on 15 cross-border and regional cooperation programmes in its eastern and southern neighbourhoods.

The links between the border regions of Moldova and Romania are naturally of great significance, given the commonalities of language, culture and history between the two countries. In 2009, the two countries signed an agreement based on Regulation (EC) 1931/2006 on local border traffic at the external land borders of EU member states. The agreement offers advantages to Moldovan citizens residing within 50 km of the Romanian-Moldovan border; they are entitled to apply for permits, which have the same duration as their passports, and which allow them to visit the border area of Romania for up to 15 days at a time. Cross-border movements have become even easier since then, thanks to the
scraping in 2014 of short-term visa requirements for Moldovan citizens visiting Romania and the rest of the Schengen area.

The regions eligible for cross-border cooperation projects and programmes vary, and can lead to the involvement of either Moldova and Romania or Ukraine separately, or regions from all three countries together. For Moldova, however, given its small territorial size, the entire country is covered. Both public stakeholders and civil society organisations are eligible to submit applications. Eligible regions of Romania and Ukraine are indicated in Box 30.1.

Box 30.1 Regions of Moldova, Romania and Ukraine participating in cross-border cooperation

Moldova: Entire country
Romania: Counties of Suceava, Botoșani, Iași, Vaslui, Galați and Tulcea
Ukraine: Oblasts of Odesa, Vinnytsya and Chernivtsi

Moldova and Romania are included in the land border programmes of the European Neighbourhood Policy (ENP), with the 2014–20 programme able to direct €81 million to projects,¹ and currently included in the European Neighbourhood Cross-Border Cooperation (ENI CBC).² The ENI CBC finances the Romania-Moldova Joint Operational Programme, continuing the 2007–13 programme for Romania–Ukraine–Moldova. The 2014–20 programme has four thematic objectives: i) supporting education, R&D and innovation; ii) promoting local culture; iii) improving access to the regions and developing cross-border transportation; and iv) addressing common security and safety issues (access to health services, prevention of natural or man-made disasters, fighting organised crime and corruption). The geography of the programme encompasses the whole territory of Moldova and four of its counties on the Romanian side (Botoșani, Iași, Vaslui and Galați). Notably, the NGOs from the Transnistrian region can also

¹ See the Joint Operational Programme Romania–Republic of Moldova 2014–20.
² The European Neighbourhood Cross-Border Cooperation (ENI CBC) supports 15 programmes, which also includes 12 neighbouring land borders of EU member states.
take part in projects, provided that they are registered with the constitutional authorities. Between 2014 and 2020, the programme financed 29 projects, for which the EU granted around €32 million, complementing the €16 million financing from Romania and Moldova. 65% of the financed projects were initiated in 2020 and will expire in 2021. The programme’s administration simplified the conditions during the Covid-19 pandemic by introducing online submission of the documentation, with the original version allowed to be presented after the lifting of movement restrictions.

Specific projects concern cross-border trade, gas and electricity network connections, cooperation over emergencies and river basin environments (see Box 30.2 for details). In addition, the EU funds the Border Assistance Mission (EUBAM) on the Transnistrian frontiers with both Ukraine and Moldova (see Chapter 2).

A Moldova–Ukraine programme was launched as part of the Eastern Partnership Territorial Cooperation Programme (EaPTC), with a budget of €3 million. This programme promotes cooperation between border regions as well as social and economic development. In particular, Moldova cooperated with Ukrainian regions including Odesa, Vinnytsya and Chernivtsi Oblasts. Projects under this programme deal with environment, SME development and youth. The European Commission has put the German Society for International Cooperation (GIZ) in charge of implementing the programmes.3

Another important programme entailing cross-border cooperation that includes Moldova is the Black Sea Basin Programme for 2014–20 (€53 million) covering regions of the EU member states bordering the Black Sea (Bulgaria and Romania), as well as some regions of Turkey and Russia, along with Ukraine, Moldova, Georgia and Azerbaijan. The programme’s goal is to support sustainable growth and joint environmental protection in the Black Sea region (e.g. through the joint reduction of marine litter). The projects will last for between 18 and 30 months. The EU announced changes in the programme in the light of the UK’s withdrawal from the EU.

Box 30.2 Romania–Ukraine–Moldova cross-border projects, 2007–13

- Improvement of cross-border cooperation – petroleum and food products (Romania and Moldova, €3 million)
- Improvement of the response capacity of Mobile Emergency Service for Resuscitation and Extrication (SMURD) through a joint integrated system for efficient monitoring and disaster consequences mitigation in common border regions (Romania, Moldova and Ukraine, €6 million)
- Pipeline interconnection between the natural gas transmission systems of Romania and Moldova on the Iaşi (Romania)–Ungheni (Moldova) border (€7 million)
- Inventory, assessment and remediation of anthropogenic sources of pollution in the Lower Danube Region (Ukraine, Romania and Moldova, €5 million)
- Feasibility study on synchronous interconnection of Ukrainian and Moldovan power systems to the continental ENTSO-E European power system (Romania, Moldova and Ukraine, €6 million)
- Prevention and protection against floods in the upper Siret and Prut River Basins, through the implementation of a modern monitoring system with automatic stations – EAST AVERT (Romania, Moldova and Ukraine, €8 million).

Source: Romania–Ukraine–Republic of Moldova Cross-border Cooperation (www.ro-ua-md.net/).

Moldova also participated in the Danube Transnational Programme, with an earmarked €5 million of the overall budget of €263 million allocated to the entire region for 2014–20. This programme aims to ensure a better governed, more connected and responsible Danube River Basin through energy, environmental and cultural projects. A task force was assigned to prepare the 2021–27 programming, but the preparatory works, including meetings, were affected by the pandemic.4

Cross-border cooperation at a glance

Moldova’s borders with Romania and Ukraine create opportunities for business, social and cultural cross-border exchanges at the regional level.

The EU contributes substantial funding to such cross-border cooperation initiatives, but some minimum financing should come from the beneficiary country.

The Moldovan–Romanian border is of special significance because of the linguistic, cultural and historical commonalities between the two countries. The majority of the financed projects, between 2014–20, have deadlines in 2021.

Concrete projects include those enhancing regional emergency services, river management, energy and transport connections, and other border infrastructure.
31. Civil Society

Moldova’s civil society has engaged in active policy dialogue with the authorities, especially since the 2009 parliamentary elections. The official data for 2019 indicate about 12,300 non-commercial organizations, out of which some thousands are NGOs. The number of NGOs that have been active in public affairs in the past years counts for about 100 entities. These NGOs cover issues such as education, development, democracy and human rights, social services, youth and culture. Among them, the most active are think tanks and associations working in areas related to democracy, electoral behaviour, human rights and social assistance. There are no legal restrictions on citizens from the Transnistrian region registering an NGO, but those from the right bank of the Dniester river cannot do the same in the Transnistrian region, and NGOs are hindered from dealing with issues related to good governance or human rights in Transnistria. A limited number of NGOs function as watchdogs, monitoring reform in Moldova and pressuring the government on progress. Overall, however, civil society still lacks the resources and capacities to become a strong driver of change.

Moldova’s NGOs are united at the national level under the umbrella of the National Council of NGOs, which includes around 100 members covering various areas. Since 1997, there has been an NGO Forum that was active up until 2018, bringing together representatives of the public, private and non-governmental sectors, including the donor community. In addition, there are mechanisms to include NGOs in the decision-making process, such
as the National Participatory Council at the government level, established in 2010, where groups are organised according to seven specific policies. Yet frequent political crises have seriously undermined the role of the National Participatory Council, leading to the temporary suspension of its activities in 2015. It was renewed in 2017, but suspended again in 2018. Overall, the domestic civil society frameworks that predated the Association Agreement and the EaP platform have lost relevance and do not function any longer.

After 2009, many civil society representatives joined political parties or became public servants. They were replaced by a new generation of experts who have been taking leading roles in various areas (the economy, justice, human rights, etc.). The current trend is a reverse flow from the public sector back to NGOs and business, where the salaries are higher and the working conditions are less volatile. According to public polls, support for civil society among citizens is steady and is much higher than for political parties.

The EU has long supported Moldovan civil society. For 2017–22 European funds of €16.9 million are scheduled to support several main projects. These cover local gender promotion (€5 million), anti-torture (around €700,000), good budgetary governance (€1.1 million), grassroots civil society (€3.7 million) and social-economic engagement of the local civil society (€2.1 million), etc. Details of these projects are displayed on a specialised webpage (eu4moldova.md), along with other projects.

The formal frameworks of cooperation between Moldova’s civil society and the EU consist of three parallel, overlapping and poorly interconnected platforms. These are the multilateral Eastern Partnership Civil Society Forum (EaP CSF), the bilateral Civil Society Platform established under the Association Agreement and the DCFTA-related Advisory Group. Although the same NGOs are often part of one or two platforms, the procedures for submitting projects to the EU are generally considered to be too bureaucratic and difficult.

**Multilateral Eastern Partnership Civil Society Forum.** One of the major avenues for the EU to engage Moldova’s civil society has been via the Moldovan National Platform of the EaP CSF, established before the Association Agreement was signed in 2009. The EaP CSF brings together members of civil society from all six
countries with individual country platforms included in the EaP. The Moldovan National Platform consisted of 101 registered organisations in 2020 (up from 84 in 2018). Platform members actively participate in four working groups: democracy, human rights and good governance; economic policies; environment and energy security; and labour and social dialogue. Regranting schemes are part of the resources allocated within the EaP CSF to support projects for the media, gender equality, SMEs, etc.).

At the 11th Annual Assembly of the EaP CSF in 2019 the civil society organisations (CSOs) from the EaP and the EU addressed a declaration to the heads of state and government and the EU institutions in preparation for the sixth EaP Summit. The declaration outlined the need for stronger cooperation between the EU and the EaP countries through creating the enabling environment for civil society discussions in the EaP countries. Young people would be more involved in decision-making processes, participation of the CSOs in the EaP architecture meetings will be increased, and the funding allocated to the EaP within the Multiannual Financial Framework (MFF) for 2020-2027 increased by at least 10%.

(Bilateral) Civil Society Platform of the Association Agreement. The Civil Society Platform was established under Art. 442(2) of the Agreement, and the initiative has created some confusion with the Moldovan National Platform in the Civil Society Forum. The Agreement states that the Platform:

shall be a forum to meet and exchange views for, and consist of, representatives of Civil Society on the side of the EU, including Members of the European Economic and Social Committee (EESC), and representatives of civil society on the side of the Republic of Moldova (Art. 442 (2)).

Although the Agreement envisages that civil society would make up the platforms, the EESC pushed for a tripartite structure consisting of unions, employers and government. CSOs, especially those working on human rights and democracy issues, argued for the need to go well beyond the EESC’s conception of social dialogue. Eventually the platform came to consist of three members each from civil society, trade unions and employers. The first meeting with European counterparts in the EESC took place on 10 May 2016 in Brussels. The main issues discussed were progress in judicial reform
and the situation in the banking sector. During 2017–18, the platform met in Chișinău (May 2017) and in Brussels (March 2018), mainly to discuss the DCFTA implementation. At the same time, the EESC has a close dialogue with the National Trade Union Confederation, with which it is evaluating the social impact of the DCFTA/AA implementation.

**Eastern Partnership Think Tank Forum.** The launch of this forum took place in Chișinău on 22 September 2017. Its aim is to bring together think tanks from the region in order to amplify their impact and promote European integration by drafting policy recommendations and creating partnerships.

**Advisory Group of the DCFTA.** Moldovan civil society also participates in the monitoring of the DCFTA through an Advisory Group. The European Commission’s Directorate-General for Trade has adopted the general practice of consulting with CSOs over its free trade agreements (FTAs). The Advisory Group includes NGOs and representatives of employers and trade unions. The meetings take place once a year in a Joint Civil Society Dialogue Forum to discuss issues related to sustainable development. The last similar meeting was in Chișinău in October 2017. Although the Agreement encourages an exchange of views on the implementation of the DCFTA, the technical knowledge on the part of the CSOs is rather low on such matters. The involvement of CSOs in EU-financed projects (TAIEX and twinning) for state institutions would contribute to building the capacity of civil society in particular areas (services, energy and intellectual property rights).

Overall, the dialogue between authorities and civil society lacks trust, and is fragmented by frequent political instability. The biggest challenges for Moldovan civil society itself are the scarcity of human resources in specific areas (such as social assistance and e-governance) and its high degree of dependence on external assistance, which raises questions about their credibility as ‘consumers of grants’. To improve the sustainability of CSOs, changes to the law of 1996 on non-governmental associations and Moldova’s Fiscal Code were made in 2014, allowing certain fiscal concessions in relation to NGOs and religious associations. Additionally, a mechanism allowing the taxpayers to direct 2% of income taxes to any NGO registered by the Ministry of Justice became functional in 2017 by which point 484 NGOs had already
registered under this mechanism. By 2018 the number of registered NGOs had risen to 594. Around 85% of the beneficiaries are NGOs, and the remaining 15% represent religious organisations. The sum of money directed by citizens doubled, from €143,138 in 2017 to €284,396 in 2018.¹ The Civil Society Development Strategy for 2018–20 was adopted in March 2018, aiming to increase the participation of the non-governmental sector in the decision-making process and improve their financial sustainability.

Between July 2017 and 2018, the environment for civil society profoundly deteriorated because of changes in the electoral system, smear campaigns and cases of bad governance linked to the oligarchic regime. In 2016 the government had proposed a new draft law on non-commercial organisations, set out with civil society and intended to improve the conditions of NGOs. However, in 2017, the Ministry of Justice attempted to amend this draft law in ways NGOs considered unfavourable. The intended changes (three articles) would have created administrative burdens for those NGOs that access external financial assistance and restrict access to funds (including external financing) for those NGOs considered to have political affiliations. Harsh sanctions that could have gone as far as liquidation would be placed on the NGOs. After protests from around 160 CSOs, and diplomatic interventions by external partners, the government abandoned the amended draft law, keeping the outdated old law in place. The fight for the original new draft law regulating NGOs’ activity was renewed in 2019–20. It was finally passed unanimously by the Parliament in June 2020, and in the format demanded by the civil society, mainly owing to the EU’s conditionality for its macro-financial assistance. The final outcome, therefore, was quite satisfactory for the NGOs.

In its contribution to the EaP structured consultation² Moldova advocated that there should be more support by external donors for CSOs in the regions as the NGOs based in capital cities are often the main beneficiaries.

¹ Legal Resources Centre of Moldova (CRJM), two years since the implementation of the 2% mechanism in Moldova, 2019, https://bit.ly/3yuk7M7.
Civil society at a glance

Civil society in Moldova has been active in advocating democracy, human rights and social protection since the country’s independence, but the number of active NGOs is small and their resources are scarce.

Civil society platforms linked to the Association Agreement and the EaP have increased and replaced pre-existing formats that had lost relevance and ceased functioning.

Though there are no restrictions on the registration or activities of NGOs, the government tried (unsuccessfully) to undermine their activities and their public image in 2017–19. The new legislation on NGOs was finally adopted in 2020, thanks mainly to the EU’s conditionality for its macro-financial assistance.

The EU gives considerable financial support to Moldovan civil society organisations (CSOs) with a focus on gender and capacity building for local and grassroots organisations.
PART IV.
LEGAL AND INSTITUTIONAL PROVISIONS
32. **Dispute Settlement**

The Agreement has two different dispute settlement mechanisms (DSMs), one that covers disputes related to the Agreement in general but excluding the DCFTA, and another more detailed one that covers the DCFTA itself.

**The general dispute settlement mechanism**

This mechanism is defined in quite simple terms in Arts 421 and 422 of the Agreement. It concerns disputes over the interpretation, application or implementation of the non-DCFTA parts of the Agreement. It is based on a traditional ‘diplomatic’ approach, under which the Association Council has the key role.

A party can initiate this DSM by sending a formal request to the other party and the Association Council. The parties shall then try to resolve the dispute by entering into good faith consultation within the Association Council or other relevant bodies (i.e. the Association Committee or a specific subcommittee). The Association Council can eventually settle the dispute, after a consultation period, by way of a binding decision. Because the Association Council takes decisions ‘by agreement’, both the EU and Moldova would need to approve the decision to resolve the dispute.

Unresolved disputes will be discussed at every meeting of the Association Council for as long as they are not resolved. If an

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1 See Art. 454 of the EU–Moldova Association Agreement.
agreement cannot be reached in the Association Council after three months, the complaining party is allowed to take ‘appropriate measures’, such as the suspension of parts of the Agreement, but not of the DCFTA part (except in the special case of violations of the ‘essential elements’ of the Agreement – see further below). In the selection of appropriate measures, priority shall be given to those that least disturb the functioning of the Agreement.²

**The ‘essential elements’ clause.** As in other Association Agreements concluded by the EU, the EU–Moldova Agreement includes a suspension clause (in Art. 422(3)) relating to ‘essential elements’ of the Agreement (defined in Art. 2). This refers to “[r]espect for democratic principles, human rights and fundamental freedoms” as defined in several international agreements and conventions, and countering the proliferation of weapons of mass destruction.

In the event of violation of these fundamental principles, the complaining party can immediately suspend the Agreement, including rights and obligations under the DCFTA.

In practice, the EU very rarely uses these suspension clauses. If a reaction of the EU is required to address a specific human rights situation in the territory of the partner country, the EU prefers to act through diplomatic means (e.g. in the Association Council or annual summit meetings), or by using limited restrictive measures, such as arms embargoes, the freezing of assets or visa bans. Total suspension or termination of the Agreement is viewed as the ‘nuclear’ option, that is, best not used.

**The DCFTA dispute settlement mechanism**

**Arbitration.** For disputes concerning the interpretation and application of DCFTA provisions, a separate and more sophisticated DSM is laid down in a long and detailed chapter (Arts 244-270) of the DCFTA. The mechanism is largely inspired by the WTO Dispute Settlement Understanding. If there is a dispute regarding the interpretation and application of DCFTA provisions,

² The requirement of a three-month consultation period and the condition that the measures may not include the suspension of any DCFTA rights or obligations do not apply in the case of violation of the essential elements, referred to in Art. 2 of the Agreement (and further explained below).
the parties will first seek to come to an agreement through consultations.

If these consultations fail, the complaining party may request the establishment of an arbitration panel to rule on the dispute. The panel will be composed of three arbitrators chosen by the parties. The arbitrators must be independent, serve in their individual capacity, not take instructions from any government and comply with a Code of Conduct annexed to the Agreement. One party cannot block the establishment of an arbitration panel, because if the parties cannot agree on the composition of the panel, the panellists will be drawn by lot from a permanent list of arbitrators.³

Rulings of the arbitration panel shall be binding and each party must take the necessary measures to comply with them. If the party to whom the complaint was addressed fails to comply without offering at least temporary compensation, the other party is entitled to suspend obligations arising from the DCFTA at a level equivalent to the violation (e.g. by reinstating the most favoured nation (MFN) tariff on specific products). Again, in practice the EU very rarely relies on the DSM in its free-trade agreements to resolve a trade dispute. It prefers instead to use diplomatic means (e.g. by discussing this in bilateral meetings, such as the Association Council or in unilateral statements) or, in some cases, the WTO Dispute Settlement Understanding. For example, trade irritants are, in the case of EU-Moldova trade relations, also raised (and addressed) in the EU-Moldova Trade Committee. For example, Moldova addressed the EU’s concerns related to entrepreneurial patents in this committee, the domestic trade law and the implications of Moldova’s Regulation on the border crossing mode of goods subject to control.⁴ These constructive discussions avoid the DSM having to be used.

³ The Trade Committee has to establish a list of 15 experts who are willing and able to serve as arbitrators. Each of the parties has to propose five individuals and the two parties shall also select five individuals who are non-nationals of either party and one who shall act as a chairperson of the arbitration panel.

⁴ Joint Report EU-Moldova Association Committee in Trade Configuration, 4 October 2019.
This DCFTA DSM is without prejudice to possible dispute settlement under the WTO. However, the parties are not allowed to pursue dispute settlement under both systems at the same time.

The DCFTA DSM includes several specific features. First, some elements of the DCFTA are excluded from this DCFTA DSM, such as parts of the chapter on trade remedies and competition. Second, as regards energy disputes, the DCFTA DSM foresees quicker procedures if one party considers that dispute settlement is urgent because of an interruption of the transport of gas, oil or electricity, or a threat thereof. This procedure should allow the parties to react in a swift manner to potential energy disputes. Third, there is a procedure that obliges the arbitration panel to ask the Court of Justice of the European Union (CJEU) for a binding preliminary ruling when there is a dispute concerning the interpretation and application of EU law (i.e. EU legislation annexed to the Agreement). This procedure aims to ensure a uniform interpretation and application of the Agreement’s annexed EU legislation without jeopardising the exclusive jurisdiction of the CJEU to interpret EU law.

Mediation. A separate lighter mechanism is included (in Annex XIX) for ‘mediation’ rather than ‘arbitration’, and which the parties can use to tackle market access problems, including non-tariff measures. This mechanism functions through the appointment of a single mediator who can advise and propose a non-binding solution within 60 days. The aim of the mediation is not to review the legality of a measure, but to find a quick and effective solution to market access problems without recourse to litigation. If the solution is agreed by the two parties, it will be adopted as a decision of the Trade Committee. This mediation mechanism does not exclude the possibility, if a solution is not agreed, that recourse to the dispute settlement mechanism with arbitration has to happen.

Transparency. In addition, the DCFTA includes a chapter on transparency (in Arts 219 to 226). Moldova has to establish “an effective and predictable regulatory environment for economic operators and efficient procedures, including for small and medium-sized enterprises, taking due account of the requirements

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5 See Art. 403 of the EU–Moldova Association Agreement.
of legal certainty and proportionality”. For example, laws, regulations, judicial decisions and administrative rulings that have an impact on the Agreement (i.e. measures of general application) must be published and communicated in a proper and timely manner. A contact point has to be established that responds to enquiries from interested persons regarding such measures of general application (proposed or in force). This chapter also includes rules on administrative and ‘review and appeal’ procedures. According to the latter, each party shall establish or maintain impartial and independent courts, or other independent tribunals or procedures, for the purpose of the prompt review and, where warranted, correction of administrative actions in areas covered by the DCFTA.

While these legal provisions are well developed, it is positive that there has so far been no need to resort to their use.

**Dispute settlement at a glance**

There are two basic mechanisms for dispute settlement – a ‘general’ one applicable to all parts of the Agreement except the DCFTA, and a second one applicable to the DCFTA itself.

The general mechanism relies on the two parties finding a mutually agreed solution in the Association Council, failing which the aggrieved party may take ‘appropriate measures’.

For DCFTA-related disputes there is a more elaborate system that provides two alternative tracks: either binding arbitration or softer mediation for consensual solutions.

There have been no disputes so far.
33. INSTITUTIONAL PROVISIONS

The EU–Moldova Association Agreement has largely been applied in a provisional form since 1 September 2014 and entered fully into force on 1 July 2016. The institutional arrangements for reviewing and controlling the implementation of the Agreement are well developed.

Institutional framework. The Agreement establishes a comprehensive institutional framework, which will play a crucial role in the monitoring and implementation process.

The key institution is the Association Council, composed of members of the EU Council and Commission on one side, and members of the government of Moldova on the other. The Association Council must meet at least once a year at ministerial level and is the core institution to monitor the application and implementation of the Agreement. It must also examine any other major issues in the relationship between the two parties. The Association Council has met five times since the Agreement’s (provisional) entry into force. At its last meeting in September 2019 the Association Council discussed the implementation of the Association Agreement and DCFTA, the Eastern Partnership (EaP) and the Transnistrian settlement. The EU also used these meetings to push for reforms in those areas where Moldova is lagging behind, such as justice, the media, energy and the business environment.

1 For the joint statement following this meeting, https://bit.ly/3hMq1m9.
The Association Council can take ‘binding’ decisions, where provided for by the Agreement. This means that the EU (and its member states) and Moldova are obliged to implement these decisions. For example, on 18 December 2015 the Association Council adopted Decision 1/2015 which applied DCFTA to the territory of Transnistria.\(^2\) It can also adopt non-binding recommendations. Both decisions and recommendations are taken by consensus between the parties.

The Association Council is assisted by an Association Committee, composed of representatives of the parties at senior official level, which in turn is assisted by specific subcommittees. The Association Council adopted rules of procedure for itself and the Association Committee\(^3\) and established subcommittees on freedom, security and justice, and economic and sectoral cooperation.\(^4\) The Agreement already established a Trade Committee to address all issues related to the DCFTA,\(^5\) complemented by several subcommittees (e.g. on sanitary and phytosanitary (SPS), customs, and trade and sustainable development).

The Agreement also established a Parliamentary Association Committee, consisting of members of the European Parliament and the Parliament of Moldova. The Agreement also envisages a Civil Society Platform, which allows civil society organisations from both sides to monitor the implementation process and prepare their recommendations to the relevant authorities in both Moldova and the EU.

Finally, the three Association Agreements do not provide for a regular and formal high-level \emph{multilateral/regional} platform between the EU and the three associated countries (i.e. Ukraine, Moldova and Georgia). In its non-paper submitted to the EaP consultation process in 2019, Moldova called for the setting up of

\(^2\) Decision 1/2015 of the EU-Moldova Association Council on the application of Title V of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, to the entire territory of the Republic of Moldova.

\(^3\) See Decision 1/2014 of the Association Council adopting its Rules of Procedure and those of the Association Committee.

\(^4\) See Decision 2/2014 of the Association Council adopting on the establishment of two subcommittees.

\(^5\) See Art. 438(4) EU–Moldova Association Agreement.
regular high-level dialogue in the EU+3 format on trade, energy, transport and the digital economy. Such an informal format has for example been established in the area of trade with the ‘informal DCFTA ministerial meetings’ between the EU (represented by the EU trade commissioner) and the ministers of economy and/or trade from the three DCFTA countries. A second meeting took place on 21 May 2019 in Kyiv, while the third meeting planned for 2020 in Tbilisi was postponed because of the pandemic. These meetings assess the progress and challenges in the implementation of the DCFTAs and share success stories.

**Dynamic approximation.** The joint institutions also play a crucial role in the process of Moldova’s (dynamic) approximation of EU legislation (i.e. the continuous updating of the list of EU directives or regulations in the many annexes to the Agreement in light of relevant legislative developments in the EU itself). As indicated in previous chapters, numerous EU acts listed in the annexes of the Agreement have already been replaced or amended in the EU; thus, the Agreement allows the Association Council to update or amend the annexes, “including to take into account the evolution of EU law”. However, because the Association Council decides by consensus, both the EU and Moldova need to agree on the updating of the annexes and several chapters of the DCFTA include specific provisions to update the annexed EU legislation. The Association Council has delegated to the Trade Committee the competence to amend or update the DCFTA annexes related to export duties, safeguard measures on passenger cars, technical barriers to trade, customs and trade facilitation, services and public procurement.

As discussed in previous chapters in this book, the Association Council (or other joint bodies) has already updated several DCFTA chapters (e.g. SPS, Technical barriers to trade (TBT), Customs, Public Procurement and Services) (Table 33.1).

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6 For the joint statement of the 2019 meeting, see https://trade.ec.europa.eu/doclib/docs/2019/may/tradoc_157890.pdf.

7 See Art. 436(3) and 449 EU–Moldova Association Agreement.

8 See Decision 3/2014 of the Association Council on the delegation of certain powers by the Association Council to the Association Committee in Trade Configuration.
Table 33.1 Updates of the Association Agreement/Decisions of the Association Council or other joint committees

<table>
<thead>
<tr>
<th>Annex topic</th>
<th>Updating decisions so far</th>
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<tr>
<td>Trade in goods</td>
<td>Decision No 1/2020 of the EU-Republic of Moldova Association Committee in Trade Configuration of 23 January 2020 concerning the update of Annex XV (Elimination of customs duties)</td>
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<tr>
<td>TBT</td>
<td>Decision No 1/2016 of the Association Committee meeting in Trade Configuration of 19 October 2016 updating Annex XV</td>
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| Customs                            | Decision No 1/2016 of the Customs Sub-Committee of 6 October 2016 replacing Protocol II  
Decision No 1/2018 of the Association Council of 3 May 2018 as regards the amendment of Annex XXVI |
| SPS                                | Decision No 1/2016 of the EU-Republic of Moldova Sanitary and Phytosanitary Sub-Committee of 1 June 2016 modifying Annex XXIV-B                                                                                     |
| Public procurement                 | Decision No 2/2016 of the Association Committee meeting in Trade Configuration of 19 October 2016 updating Annex XXIX                                                                                           |
| Services and establishment         | Decision No 1/2019 of the meeting in Trade Configuration of 4 October 2019 concerning the update of Annex XXVIII-B (Rules applicable to telecommunication services)  
Decision No 2/2019 of the EU-Republic of Moldova Association Committee Meeting in Trade Configuration of 4 October 2019 concerning the updating of Annex XXVIII-D (Rules applicable to international maritime transport) |
| Transport (services)               | Under preparation                                                                                                                                                                                             |
| Environment/climate                | Under preparation                                                                                                                                                                                             |
| Company law                        | Under preparation                                                                                                                                                                                             |
| Employment, social health, public health | Under preparation                                                                                                                                     |
| Financial cooperation              | Under preparation                                                                                                                                                                                             |
While the Association Council has broad powers to amend the annexes, it cannot change the main body of the Agreement, since, being a Treaty, this would once again require the complex procedures of ratification according to the internal procedures of the EU and Moldova. Moreover, the competences of the joint bodies established by the Association Agreement to modify the annexes in order to incorporate entirely new areas of EU legislation (for example to foster cooperation or market integration in new areas), are from a strictly legal point of view rather limited. First of all, the Association Council (or Committees) can only act in those cases explicitly provided for in the Agreement. Moreover, with regard to the modification of the annexes covering EU legislation, the Agreement specifies that the Association Council can only do so “to take into account the evolution of EU law and applicable standards”. This implies that, from a strict reading of these provisions, the Association Council does not have the general competence to broaden or widen the scope of the annexes to include new areas of EU legislation. The Association Council therefore does not have the competence to substantially broaden the approximation commitments of the Association Agreement chapters/annexes, or to add new annexes with new areas of EU legislation. However, there are other ways, beyond changing the treaty text, to enhance the relationship if the parties so wish. This can include separate sector-specific agreements (such as already exist for civil aviation), or jointly agreed action plans or MoUs.

The Association Agreement provides that the Association Council is “a forum for exchange of information on European Union and Moldovan legislative acts, both under preparation and in force, and on implementation, enforcement and compliance measures”. However, in practice, the preparatory work for the updating of the Agreement’s annexes is taking place at the level of the different subcommittees. The draft proposals then follow the institutional hierarchy of the Association Agreement up to the Association Council (or Association Committee meeting in Trade Configuration), which adopts the actual joint decisions. On the EU side, the EEAS is responsible for the updating of the sectoral (non-DCFTA) chapters and DG Trade is responsible for the updating of the DCFTA chapters. However, both the EEAS and DG Trade rely on the input and expertise from other Commission DGs through
interservice consultations to prepare the updating of the annexes (e.g. DG GROW for the TBT chapters, DG SANTE for the SPS and public health chapters, DG Environment and DG CLIMA for the chapters on environment cooperation, DG ENER for the chapters on energy cooperation). The preparation of the joint meetings (Association Council, Committee or subcommittees) falls under the responsibility of the EEAS, which is provided with data by the EU delegation in Chișinău.

**Institutional provisions at a glance**

The Association Agreement has largely been provisionally applied from 1 September 2014 and entered fully into force on 1 July 2016.

A comprehensive joint institutional framework monitors the implementation of the Agreement and provides a platform for political dialogue.

The Association Council has a broad competence to amend the annexes of the Agreement, but not the main body of the Agreement. Progress has been made in updating several chapters/annexes, but more updates are required in important DCFTA chapters (e.g. energy).

These institutional arrangements have been working effectively since the Association Agreement entered into force.
“These books offer a one-stop guide to the Association Agreements—the authors have painstakingly analysed the incredibly complex Agreements to deliver a compact and accessible overview to all those who need to grasp their contents. The national teams also shed light on the salience of the content for domestic reforms. Even though the books are not meant to be read like a book, the reader who does so is rewarded with a panoramic overview of the sheer scale and ambition of the AA-DCFTA. The books offer a plethora of pivotal insights into the Agreements while at the same time raising a number of important questions. A ‘Bible.’”

— Kataryna Wolczuk, Centre for Russian, European and Eurasian Studies, University of Birmingham

The purpose of Deepening EU-Moldovan Relations is to make the complex political, economic, and legal content of the Association Agreement readily understandable. This third edition, published seven years since the Agreement’s implementation is substantially new in content, both updating how Moldova has been enacting the Agreement, and introducing new dimensions (including the Green Deal, the COVID-19 pandemic, cyber security, and gender equality). The Handbook is also up to date in analysing Moldova’s dramatic political swings between the recent pro-Russian and new pro-European presidencies.

For Moldova, the signing of the Association Agreement and the DCFTA with the European Union in 2014 was an act of strategic geopolitical significance. Of all the EU’s eastern neighbours, Moldova is objectively the most European on several counts, including sharing a common history, language, culture and border with EU member state Romania. These provide a positive foundation for a successful Agreement, notwithstanding the major political challenges that confront contemporary Moldova.

Two teams of researchers from leading independent think tanks, CEPS in Brussels and the Expert-Grup in Chișinău, collaborated on this project, with the support of the Swedish International Development Agency (Sida). This Handbook is one of a trilogy that examines similar Association Agreements made by the EU with Ukraine and Georgia.

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