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## **Second Evaluation Round**

### **Compliance Report on Moldova**

Adopted by GRECO  
at its 40<sup>th</sup> Plenary Meeting  
(Strasbourg, 1-5 December 2008)

## I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Moldova at its 30<sup>th</sup> Plenary Meeting (13 October 2006). This report (Greco Eval II Rep (2006) 1E) was made public by GRECO, following authorisation by the authorities of Moldova, on 17 November 2006.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Moldova submitted their Situation Report (RS-Report) on the measures taken to implement the recommendations on 15 July and 7 August 2008. A revised version was sent on 24 October, and additional information was sent thereafter (on 28 October, 31 October and 4 November).
3. At its 26<sup>th</sup> Plenary Meeting (5-9 December 2005), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Andorra and Romania to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Ivan ALIS-SALGUERO on behalf of Andorra and Ms Oana HAINEALA on behalf of Romania. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
4. The objective of the RC-Report is to assess the measures taken by the authorities of Moldova to comply with the recommendations contained in the Evaluation Report.

## II. ANALYSIS

5. It was recalled that GRECO in its Evaluation Report addressed fifteen recommendations to Moldova. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

6. *GRECO recommended to revise and harmonise existing legislation on confiscation and interim measures so that the instrumentalities of corruption and other related offences as well as the proceeds and their equivalent value can be confiscated.*
7. As regards the system of confiscation, the Moldovan authorities report that article 106 "Special confiscation" of the Criminal Code has been amended by two laws<sup>1</sup>. Firstly, Law no. 243 of 16 November 2007 replaced the notion of "thing" in paragraph (2) of the article with the notion

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<sup>1</sup> The text of article 106 on special confiscation now reads as follows (the amendments are underlined):

(1) Special confiscation is the transfer, forced and free of charge, to the State of the ownership in the assets that have assisted in the commission of the offence and of the proceeds thereof. If the assets used for or derived from the offence no longer exist or cannot be found the equivalent thereto shall be confiscated.

(2) Special confiscation shall apply to: (a) the proceeds of the offence provided for in the present Code, as well as all the income derived from those assets, with the exception of assets and incomes that must be returned to the legitimate owner; (b) assets used for or intended for the commission of an offence when they belong to the convicted person; (c) assets passed on with the aim of inciting the commission of an offence or assets constituting remuneration for those who have committed the offence; (d) assets that clearly originate from an offence if they do not have to be handed back to their owner or are not earmarked to compensate the damage suffered by the victims; (e) assets held illegally; (f) converted or transformed, partially or wholly, proceeds from crimes and incomes from those assets; (g) used or intended to finance terrorism.

(2<sup>1</sup>). If the assets resulting from or acquired through an offence and the incomes from such assets have been incorporated within legally obtained assets, the value of those assets or the equivalent value of those assets corresponding to the value of the assets and incomes incorporated shall be confiscated.

(3) Special confiscation shall be applied against those individuals having committed an offence provided for in the Criminal Code. The assets mentioned in para.(2) may also be confiscated in cases where these belong to third parties having accepted in the knowledge that they are of illegal origin.

(4) Special confiscation may be undertaken even if no sentence has been passed.

(5) Confiscation shall not be applied in cases of offences committed via an organ of the press or any mass media.

of "assets", whose meaning leaves no room for doubt or ambiguity. Secondly, Law no. 136-XVI of 19 June 2008 (published on 08.08.08 in the '*Monitorul Oficial*' (Official Gazette)) supplemented paragraph (1) of the article defining confiscation and now provides for the possibility of confiscating the equivalent value of the proceeds from the offence in cases where those assets cannot be "located" (as well as in cases where they no longer exist, as previously). Paragraph (2) sub-paragraph a) has been supplemented to allow confiscation of the assets resulting from the offence charged as well as all the income derived from those assets, with the exception of assets and incomes that must be returned to the legal owner. Then, in the same paragraph (2) there are new sub-paragraphs f) and g), making subject to special confiscation those assets which are: "*f) converted or transformed, partially or wholly, proceeds from crimes and incomes from those assets; g) [and those] used or intended to finance terrorism.*" Paragraph (2) is now followed by a paragraph (2<sup>1</sup>), worded as follows: "*(2<sup>1</sup>) If the assets resulting from or acquired through an offence and the incomes from such assets have been incorporated within legally obtained assets, the value of those assets or the equivalent value of those assets corresponding to the value of the assets and incomes incorporated shall be confiscated.*"

8. As regards interim measures, Law no. 243 of 16 November 2007 amending and supplementing certain legislative acts (published in the Official Gazette on 14 December 2007) amended article 203 paragraph (1) of the Code of Criminal Procedure, which now reads as follows: "Sequestration of assets constitutes a measure of constraint for the purpose of cataloguing the assets and prohibiting the owner or possessor from disposing thereof and, where applicable, from making use thereof".
9. GRECO takes note of the amendments made since the adoption of the Evaluation Report and notes with satisfaction the improvements made, making it possible to confiscate the benefits derived from the proceeds of the crime, as well as proceeds that have been converted or transformed in whole or in part and assets equivalent to the proceeds of the crime. Even though the Evaluation Report had pointed at a some other lacuna, a new analysis of the various relevant provisions and of the linkage between them suggests that these lacuna were more theoretical than of real significance from a practical point of view. On the contrary, with the amendments introduced in respect of Article 203 of the Code of Criminal Procedure, important gaps have been filled.
10. GRECO concludes that recommendation i has been dealt with in a satisfactory manner.

#### **Recommendation ii.**

11. *GRECO recommended to strengthen the resources of investigators and prosecutors in the fight against corruption, to increase the efficiency and speed of financial investigations, including in respect of politically or economically sensitive cases, and to make more systematic use of asset investigations.*
12. As regards the first part of the recommendation (*to strengthen the resources of investigators and prosecutors*), the Moldovan authorities report that the Centre for Combating Economic Crimes and Corruption (CCECC) and the anti-corruption prosecutor's office received in 2008<sup>2</sup> additional equipment and computers (in the framework of the MOLICO programme of the Council of Europe and the European Commission). Now that the competences of the Ministry of the Interior and those of the CCECC have been better defined by amendments of 2005, 2006 and 2008 to the Code of Criminal Procedure, the CCECC has the main police responsibility for dealing with

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<sup>2</sup> Law N°139 of 20 June 2008, published on 15 July 2008, modifying Law N°1140 on the CCECC

corruption matters; the police has jurisdiction for corruption offences only where these are private sector offences or secondary offences in respect of predicate offences falling under the responsibility of the police. Finally, the number of staff of the anti-corruption prosecutor's office was increased (from 27 at the time of the on-site visit to 33 staff, currently), and all positions – 8 altogether – of its two territorial offices have now been filled.

13. As regards the second part of the recommendation (*to increase the efficiency and speed of financial investigations, including in respect of politically or economically sensitive cases*) and the final part of the recommendation (*to make more systematic use of asset investigations*), the Moldovan authorities stress that since Law N° 70 entered into force on 6 July 2008, prosecutors have the power to coordinate the activity of the various criminal prosecution bodies in the anti-crime area. Criminal prosecution bodies and prosecutors already have direct access to a set of computerised databases, providing them with information as and when required on suspects' assets and property. In addition, training is run with a view to increasing the expertise of investigators and prosecutors: a) participation of staff from the CCECC and the anti-corruption prosecutor's office in the seminar from 8 to 10 November 2006 on detection, investigation and court referral of high-level corruption cases organised by the Regional Secretariat of the Anti-Corruption initiative of the Stability Pact for South-Eastern Europe, and a joint work session on high-level corruption on 3 May 2007; b) activities organised with the backing of the international community (see paragraph 21 below, such as the round table on 29 and 30 November 2007 on "identification and pursuit of assets resulting from offences", the draft guide to practice in investigating corruption cases, in which one section will cover investigations into finances and property). In 2008, convictions for corruption and related offences were pronounced against police officers (14), customs officers (5), one prosecutor, senior civil servants (19) and 64 other public officials. Investigations are currently under way in respect of senior officials including parliamentarians (3), judges (3), one head of directorate from the Ministry of the Interior, a former minister as well as several mayors and local elected officials. Finally, during the first semester of 2008, the CCECC has applied temporary seizure measures in respect of the equivalent of MDL 22 million (about € 1,9 million), as the result of more systematic financial and assets investigations; according to the Moldovan authorities, these figures represent a substantial increase compared to previous years and they would demonstrate significant improvements as regards the capacity to handle cases involving senior officials and to target corruption proceeds.
14. GRECO takes note of the information provided and various steps taken in the direction of the Recommendation. The issue of resources has been taken into account as regards the CCECC and the anti-corruption prosecutor's office, who are the main responsible bodies to deal with corruption cases. Procedural and training/awareness-raising measures have been taken, and others, such as the drafting of a guide for prosecutors, are in the adoption process with a view to improve the processing of corruption cases. The figures provided by the Moldovan authorities tend to support the assertion that the criminal law bodies are better equipped to prosecute corrupt acts, including where these involve high ranking officials. GRECO hopes that there will be other initiatives (inclusion of financial and asset investigations in circulars and general instructions, the taking into account of these topics in the priorities and objectives of investigation/prosecution/adjudicating bodies) to supplement those already undertaken or planned. For the time being, it considers that there has been progress on this recommendation considered as a whole.
15. GRECO concludes that recommendation ii has been dealt with in a satisfactory manner.

### **Recommendation iii.**

16. *GRECO recommended to bring the legislation on special investigative techniques in line with the provisions of the Criminal Law Convention on Corruption (ETS no. 173).*
17. The Moldovan authorities report that to remedy the shortcoming noted in the Evaluation Report<sup>3</sup>, a draft law amending and supplementing the Code of Criminal Procedure (CCP), and Law no. 45-XIII of 12 April 1994 on operational investigation activities, has been drafted and proposed by the Prosecutor General's office. The aim is to introduce provisions into the CCP allowing the interception of communications (article 135) as well as their recording and the use of electronic surveillance techniques (article 137). At the initiative of the prosecutor and on the authorisation of the investigating judge, these techniques would be applicable to all serious, extremely serious or exceptionally serious offences in the Criminal Code (CC) and a number of offences punishable by up to 5 years' imprisonment, including the 'base' offences of laundering (article 243 paragraph 1), active and passive corruption (articles 324 paragraph 1, 325 paragraph 1, 333 paragraph 1, 334 paragraph 1, 335 paragraph 1, 336 paragraph 1), acceptance of illicit rewards by an official (article 330 paragraph 1), trading in influence (article 326 paragraph 1), abuse of authority or of functions (article 327 paragraph 1), abuse of authority (art. 328 paragraph 1). It is also planned to include provisions (articles 274 paragraph 1 to 5) with a view to using under-cover agents and simulated offences. The draft has been approved by the government and transmitted to Parliament.
18. GRECO takes note of the draft amendment aimed at improving the legislative framework with a view to expressly regulating the use of certain special investigative techniques in the Code of Criminal Procedure and allowing evidence obtained by such means in trials. It notes with satisfaction that special investigative techniques (interception of communications, electronic surveillance, under-cover operations and simulated offences) will be admissible in connection with all corruption and laundering offences and it urges the authorities to finalise the adoption of this reform, which should help to strengthen legal security in this area.
19. GRECO concludes that recommendation iii has been partly implemented.

### **Recommendation iv.**

20. *GRECO recommended to introduce guidelines and training courses to foster more systematic use of interim measures and of the confiscation of the instrumentalities and proceeds of corruption, including assets of equivalent value.*
21. The Moldovan authorities report that in July 2007 the Directorate of criminal prosecutions at the Prosecutor General's office drew up and distributed to all the services concerned in Moldova a guide entitled "Practical guide for prosecutors and criminal prosecution officers to the correct and

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<sup>3</sup> Paragraph 31 of the Evaluation Report: "The Code of Criminal Procedure only authorises the use of special investigative techniques in corruption cases with aggravating circumstances. They are accordingly not available in ordinary corruption cases that are punishable by a maximum of five years' imprisonment, in cases involving trading in influence or accounting offences or for identifying the proceeds of such offences. During the visit, representatives of the CCECC and the Public Prosecutor's Office nevertheless stated that in practice such special investigative techniques were employed in corruption investigations, based on a 1993 Law on Operational Investigations, but that the data obtained were not admissible in court."

mandatory application of interim measures". A round table was organised on 29 and 30 November 2007 on "Identification and pursuit of assets resulting from offences", with the participation of prosecutors, criminal prosecution officers, judges, tax inspectors, staff of the Supreme Security Council Service as well as foreign experts. Among the topics discussed were the application of sequestration and its judicial supervision, the obligation of confiscation of the proceeds of corruption offences and the execution of confiscation decisions. From 15 to 17 April 2008, two prosecutors of the Anti-corruption Prosecutor's office took part in the international conference in Krakow, Poland, on cooperation on an international scale in the identification and confiscation of the proceeds of offences. Other training activities are organised or planned within the framework of the MOLICO cooperation programme<sup>4</sup>, such as the seminar held from 1 to 5 October 2007 for prosecutors and criminal prosecution officers on judging corruption cases, the seminar organised on 10 and 11 April 2008 by the Anti-corruption Prosecutor's office (for about twenty prosecutors and the same number of judges) on corruption investigations, which provided an opportunity to tackle the theme of the present recommendation. As part of the same programme, the Anti-corruption Prosecutor's office is currently preparing another practical guide on the investigation of corruption cases, in which one section will cover investigations into finances and property.

22. GRECO takes note of the information provided and hopes that these new initiatives will enable investigation and prosecution bodies to focus more strongly on the proceeds of corruption with a view to seizing and confiscating them.
23. GRECO concludes that recommendation iv has been implemented satisfactorily.

#### **Recommendation v.**

24. *GRECO recommended to make every effort to ensure that the links between organised crime and money laundering are taken into account in all aspects of the fight against corruption, especially by making it easier to identify the existence of such links and by strengthening the contribution of the anti-money laundering arrangements to the fight against corruption and by ensuring that institutions and professions required to declare their suspicions receive instructions and training to assist the detection and reporting of acts of corruption.*
25. The Moldovan authorities report that the new law on preventing and combating money laundering and the financing of terrorism – Law no. 190-XVI of 26 July 2007, published on 7 September 2007, now expressly stipulates in article 11 that the financial intelligence unit (FIU) located within the Centre for Combating Economic Crimes and Corruption (CCECC) may pass on to criminal prosecution bodies possible cases of money laundering and also other offences (including corruption) reported to it by the entities bound by anti-laundering arrangements. The financial intelligence unit is also required to draw up guidelines intended to assist the entities bound by reporting requirements to identify suspicious transactions. Two guides were adopted in November 2007 and forwarded to those entities; one provides for standardised forms for the reporting of suspicious transactions, and the other for indicators of such transactions. The Moldovan authorities also indicate that money-laundering typologies are available in the FIU's annual reports, published on the CCECC's website. For the time being, neither the indicators nor the typologies take into account the issue of (proceeds from) corruption.

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<sup>4</sup> Joint project of the Council of Europe and the European Commission against corruption, money laundering and the financing of terrorism in the Republic of Moldova.

26. On 28 May 2008, all the territorial offices of the Prosecutor's office received circular no. 19-13a/08 from the Prosecutor general giving methodological recommendations on combating organised corruption. Other projects are in progress: a) within the MOLICO Project framework (see recommendation IV), the Anti-corruption Prosecutor's office is working in conjunction with other authorities on the content of a Practical guide for investigators to methods of investigating corruption cases; one section will focus on identifying the links between organised crime and corruption (see also recommendation iv); b) the Prosecutor general's office, the Customs service, the Ministry of Internal Affairs, the CCECC and the Intelligence and Security Service are currently working to prepare a common set of instructions geared to the need to investigate links between organised crime, money laundering and corruption.
27. GRECO takes note of the information provided which indicates that some progress has been made. However, it is regrettable that neither the CCECC's money laundering typologies nor the November 2007 guide distributed to the entities bound by reporting requirements to prevent money laundering take into account corruption. There is no indication, either, of training activities aimed at those entities. Positive initiatives are also planned, and their results will have to be monitored (preparation by the Prosecutor's office of a practical guide for investigators covering the links between corruption and organised crime, preparation of common instructions taking into account the links between corruption, organised crime and laundering).
28. GRECO concludes that recommendation v has been partly implemented.

**Recommendation vi.**

29. *GRECO recommended to implement the administrative reform strategy as fully as possible; to establish a clearer link between administrative reform and the fight against corruption by placing more emphasis on the risks of corruption within the administration; to extend the measures recommended by this reform, which have a particular bearing on the fight against corruption, at the local and regional levels; and, finally, to ensure that implementation of these measures is properly monitored.*
30. The Moldovan authorities report that as regards the first part of the recommendation (*to implement the administrative reform strategy as fully as possible*), implementation of the Central Government Administrative Reform Strategy (GARS), as approved in 2005 by governmental decree no. 1402, is being carried out on the basis of an action plan approved for a period of several years (the current one covers the period 2007-2009) and undertaken on a year-by-year basis. The plan contains various chapters and under each one, a set of concrete implementing measures. The last report on the implementation of the plan, dated October 2008 and published on the government website, takes stock of the actions carried out, examines the level of implementation, and identifies the difficulties and reasons that have caused certain delays (for instance, the lack of means has led to the postponement in 2009 of the setting up of the computerised database of positions and public officials of Moldova. Overall, out of the 41 actions planned for 2008, the majority of these are considered to have been implemented: 2 actions only have been partly implemented and 3 actions had to be postponed for implementation in 2009; 5 actions have been delayed but should nevertheless be fully implemented before the end of 2008.
31. As regards the second part of the recommendation (*to establish a clearer link between administrative reform and the fight against corruption by placing more emphasis on the risks of corruption within the administration*), it is reported that the GARS does not expressly set out anti-corruption activities, as this would duplicate the National Strategy for Preventing and Combating

Corruption (NSPCC). On the other hand, the action plan of the NSPCC provides for initiatives aimed more broadly at strengthening the efficiency of the administration, ensuring transparency in the public sector and creating a corps of integrated officials, which points to the existence of coordination between the two strategies. Furthermore, the implementation of the GARS and NSPCC action plans is, in practice, the responsibility of the same persons (the private office of the government, ministers and directors).

32. As regards the third part of the recommendation (*to extend the measures recommended by this reform, which have a particular bearing on the fight against corruption, at the local and regional levels*), the Moldovan authorities stress that, notwithstanding the title of the Central Government Administrative Reform Strategy, it also extends to local administration, and they have provided several examples to illustrate this: a) the monitoring group of the NSPCC, as its current membership stands (approved by Presidential Decree no. 1537 of 28.02.2008), includes not only representatives of central public administration but also the President and Vice-President of the Association of Presidents and councillors of the districts of the Republic of Moldova, as well as one member of the Senate of Mayors; b) local public authorities are included in the capacity of executors of a set of activities<sup>5</sup> provided for in the action plan for the implementation of the NSPCC for the years 2007-2009 and they regularly submit reports to the monitoring group on the measures undertaken with a view to preventing corruption; c) a series of Government decrees, relating to transparency in the activities of public administration bodies, access to official information, the holding of consultations of citizens and the examination of petitions, is also aimed at local authorities; d) in February-March 2008, the CCECC organised work seminars on the theme of the NSPCC and more systematic initiatives for training local staff are planned (for example through the training of instructors for district-level public officials); e) Law no. 436 of 28 December 2006 (in force as of 9 March 2007) on local public administration provides *inter alia* for the obligation to introduce internal audit machinery at local level and also use it for the purpose of preventing corruption. Finally, for this part of the recommendation, the scope of the new Law (no. 90-XVI of 25.04.2008, in force as of 13.06.2008) on preventing and combating corruption now applies to a substantial number of public officials, and not only civil servants; the Moldovan authorities stress that the list in article 4 of the law<sup>6</sup> covers all public officials (at central and local levels).
33. Finally, as regards the fourth part of the recommendation (*to ensure that implementation of these measures is properly monitored*), the Moldovan authorities report that the GARS and the NSPCC are both subject to monitoring as regards implementation of the planned reforms, the former by the government and the latter by the monitoring group for the implementation of the NSPCC. It has also been reiterated that, since 2005, a deputy minister has been specifically tasked with the prevention of corruption and nepotism, with responsibility for a) setting up internal monitoring of compliance with anti-corruption rules by officials; b) ensuring monitoring of the implementation of

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<sup>5</sup> Item 3.2 on the prevention of corruption and nepotism in the area of recruitments; item 4.2 on the evaluation of risks of corruption in public administrations; item 4.14 on the introduction of internal control mechanisms.

<sup>6</sup> Article 4 of the law lists the individuals to whom it applies: a) politically exposed persons; b) public officials; c) judges, prosecutors, officers of prosecution bodies, members of military, diplomatic, tax and customs services, of the CCECC, and of the national security and internal affairs services; d) the directors and deputy directors of public institutions, state or municipal enterprises, or enterprises in which the State is the majority stake-holder; e) persons authorised to take decisions concerning assets of the State or territorial administrative entities (including financial resources), or who have prerogatives for disposing of those assets under prescriptive acts; f) persons providing a public service; g) persons temporarily or permanently vested with one of the functions listed in points a) to f); h) public officials having completed their term of employment or having resigned or been dismissed from their post under the applicable rules of law; i) the representatives of persons participating in elections; j) notaries, auditors, lawyers and other representatives before the courts; k) other persons as provided for by law.

institutional measures to prevent corruption; during the first 10 months of 2008, the heads of 9 public authorities presented to the monitoring group their reports on anti-corruption activities and eventually, the group decided to carry out additional controls within three ministries (Defence, Transport, Agriculture and Food industry) and addressed recommendations to these.

34. GRECO takes note of the information provided, which demonstrates the efforts of Moldova to reform the administration while taking corruption aspects into account. GRECO considers that, on the whole, the present recommendation has been taken on board but it strongly encourages the authorities to devote their energies to pursuing that reform.
35. GRECO concludes that recommendation vi has been implemented satisfactorily.

#### **Recommendation vii.**

36. *GRECO recommended to continue strengthening the contribution of bodies responsible for administrative supervision in the fight against corruption so that tangible results can be obtained, especially by continuing the work on assessing the risk of corruption in public administration and organising new training courses on identifying and reporting corruption offences and related abuses.*
37. The Moldovan authorities, as regards the first part of the recommendation (*to continue strengthening the contribution of bodies responsible for administrative supervision in the fight against corruption so that tangible results can be obtained*), report that the principle of auditing and internal financial control has been introduced at both local level (aforementioned Law no. 436 of 28 December 2006 - in force as of 9 March 2007 – on local public administration) and national level (Government decree no. 1143 of 4 October 2006, amended in February 2008); a charter and a code of ethics for internal auditing were adopted in December 2007 by order of the Minister of Finance; the charter provides for the duty to inform the institutions' management of any suspicions of fraud or irregularities (including corruption). Training seminars have been run for members of the public administration and the Chamber of Audit on auditing and internal control (according to the Moldovan authorities, the matter of detecting acts of corruption was covered); the Chamber then carried out training activities and checks in 2007 on the introduction and functioning of these audit and control mechanisms (with the National Statistics Office, the Customs Service, the State Tax Service, the Bureau of Inter-ethnic Relations and the Ministry of Finance). The findings of these checks resulted in demands for improvements sent to the managers of the entities checked, and in the detection of at least one case of large scale embezzlement and corruption<sup>7</sup>. Since the advent of Law no. 90-XVI of 25 April 2008 on preventing and combating corruption (in force as of 13 June 2008), the various authorities are under obligation themselves to institute internal supervision of compliance with the law and in particular to gather information from all possible sources (interviews, anonymous letters, telephone calls, e-mails) regarding any suspicions or acts of corruption and forward them to the "specialised authority" (the CCECC). These administrative authorities must also submit information notes on the measures taken to the CCECC every three months. The Moldovan authorities stress that it is too early to assess the implementation of these measures in practice.
38. As regards the second part of the recommendation (*continuing the work on assessing the risk of corruption in public administration*), the anti-corruption law of 25 April 2008 (article 5, paragraph 4) places responsibility on the Government to assess risks and identify institutional factors

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<sup>7</sup> A file was open by the prosecutor's office against the managers of the Ministry of Ecology and State Resources, concerning a prejudice to the State of MDL 3,9 million (over € 290,000).

fostering corruption (such assessments started already in 2007), as well as to devise measures in response to the risks identified. For its part, the CCECC (with the support of the MOLICO programme) has devised a methodology for assessing those risks and this was approved on 28 July by the Government (and published on 12 August 2008); this text places an obligation on central public authorities<sup>8</sup> to carry out their own assessments of risks in 2008 and 2009 and report to the Government on the findings. In addition, the anti-corruption law (article 7, paragraphs 1 and 2) introduces a process for the assessment and monitoring of draft legislative acts to ensure that they comply with anti-corruption legislation and eliminate the legal loopholes likely to foster corruption. The aim is also to achieve greater transparency. To promote this methodology at central and also local level, training courses were organised between April and June 2007 in 11 districts of the Republic of Moldova. There was also a seminar organised on 25 May 2007 for the members of the monitoring group of the NSPCC and those responsible<sup>9</sup> for preventing corruption within public administrations..

39. Finally, as regards the third part of the recommendation (*organising new training courses on identifying and reporting corruption offences and related abuses*), the Moldovan authorities report that numerous training activities were run in 2007 and at the beginning of 2008 on questions of integrity and combating corruption within courts and prosecution authorities, as well as to raise awareness of the future machinery for whistle-blowers and their protection (see also recommendation x). Regular meetings bringing together the CCECC and the anti-corruption Prosecutor's office on the one hand and public officials of various levels on the other hand so that they can discuss points such as the reporting of corruption cases and machinery for establishing liability for these acts. In the first half of 2008, 30 such meetings were organised, involving over 1,350 people (from the tax authorities, financial control bodies, education and media institutions, local authorities etc).
40. GRECO takes note of the information provided. Substantial efforts have been made to strengthen machinery for the prevention and monitoring of corruption within the administration, analyse risks and train staff. GRECO hopes that the different measures taken will enable administrative and financial control mechanisms (whether external or internal) to detect cases of corruption and related abuses (nepotism etc) in future and yield tangible results, which are currently still lacking. On the whole, GRECO considers that the recommendation has prompted significant improvements.
41. GRECO concludes that recommendation vii has been implemented satisfactorily.

#### **Recommendation viii.**

42. *GRECO recommended to continue to supplement the current legislation on administrative transparency and to ensure its actual implementation, including closer monitoring of the implementation of the rules pertaining to freedom of information and by giving public officials appropriate training in these areas.*
43. The Moldovan authorities report that a government decree adopted in June 2006 obliges both central and local administrative authorities to have an Internet site and publish a certain amount of information relating to their organisation and activities, regulatory texts (including draft texts),

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<sup>8</sup> According to the Moldovan authorities, local entities are also involved since the central administration comprises the Ministry of Local Public Administration, which is required to implement the measures also at local level.

<sup>9</sup> A Deputy Minister and a Deputy Director of the administration; the latter was appointed by government decree in 2005 and is responsible for the anti-corruption prevention activities within the administration.

analysis of the activity of the administration concerned, findings of monitoring activities carried out in respect of the administration etc. The priorities of the government programme for the period 2008-2009 (section 2, paragraph 3) include greater transparency of public decision-making and administrative acts by providing for participation by civil society in decision-making processes and communication with the media. The measures recommended above are included or reflected in Law no. 90-XVI of 13 June 2008 on preventing and combating corruption, and unjustified retention of information is punishable by administrative sanctions under the existing provisions of article 174-18 of the Code of infringements. The Law on the civil service code of conduct, no. 25-XVI of 22 February 2008 (in force as of 1 January 2009), lays down the obligations of actively informing citizens on matters of public interest, ensuring free access to information and complying with legal deadlines for providing information; this is an obligation applicable to all officials, who may otherwise face disciplinary measures.

44. In response to the concerns expressed in paragraphs 62 and 63 of the Evaluation Report that legislation is not sufficiently precise regarding access to certain information, existing provisions (on commercial, banking and fiduciary secrecy) have been supplemented by Law no. 17-XVI of 16 February 2007 on the protection of personal data, which specifies the scope of information that must remain confidential. In addition, a presidential decree of 26 June 2007 introduces a classification list of information subject to state secrecy (certain pieces of military information, information concerning protected persons, financial State Reserves and computerised data protection systems in the banking sector). A draft law on state secrecy, aimed at introducing further clarification in that context is currently before Parliament. Finally, Law N°239-XVI on the transparency of administrative decision-making was approved by the Parliament on 13 November 2008. The purpose of this legislation is to establish criteria and means to ensure transparency in the elaboration and adoption of decisions by public authorities, notably by associating the public (individual and civil society organisations) to the process through the creation of a "Participation Council" to the Government. The intention of the drafters is to introduce a duty for the authorities to consult with the public about every decision, to give the public a right to participate in the decision process and to give the public broad access to the necessary information in that context.
45. Concerning controls over the implementation of freedom of access to information provisions, the Moldovan authorities stress that although this has apparently not been mentioned in the context of GRECO's evaluation until now, the Law of 2000 on access to information already provides for a double system of control which gives every citizen the possibility to challenge the authorities' decisions to not deliver the information requested. This mechanism makes it possible to first appeal to the head of the administrative authority that rendered a negative decision and second, should the decision be maintained or not rendered within 3 weeks, to file a complaint with the administrative judge who shall decide within a few days and shall give a deadline to the administration concerned to deliver the information in question. Also, officials who retain information without valid reasons can be subjected to administrative liability. The Moldovan authorities also point out that the judicial review system is quite effective and this has led to a constant increase in the number of cases in recent years; thus, the Supreme Court of Justice rendered on 2 April 2004 an important decision in which it provides explanations to the lower courts as to how legislation on access to information is to be applied to ensure its correct and consistent application. The Law of 2000 is also subject to some sort of general monitoring by certain specialist NGOs who produce periodic public reports in which the level of information access is assessed and measured.
46. The Moldovan authorities provide a list of activities in the area of administrative communication with the public, and access to information, held between March and September 2008 in

cooperation with NGOs like “Access info”, Transparency International, the Club of Investigative Journalism, as well as in the context of the MOLICO Programme of the Council of Europe and the European Commission. Training events are also planned or took already place as part of the courses of the Academy of Public Administration.

47. GRECO takes note of the information provided, and observes that significant progress is reported in the area of legislation and training concerning transparency of the administration and access to information. Law N°239-XVI and the creation of a “Participation Council” to involve the public in all decisions are positive and original initiatives. The regime applicable to various categories of information has been specified and GRECO is pleased to learn that the Law of 2000 on access to information already provided for a dual control mechanism involving the judicial authorities. The general monitoring work carried out by civil society organisations can be a useful complementary tool.
48. GRECO concludes that recommendation viii has been dealt with in a satisfactory manner.

#### **Recommendation ix.**

49. *GRECO recommended to adopt suitable legislation on conflicts of interest, including situations where public officials move to the private sector, and to set up an efficient system for monitoring public officials' declarations of assets and interest.*
50. The Moldovan authorities report that, on 15 February 2008, Parliament passed Law no. 16-XVI on conflict of interest (published on 30 May 2008), giving the government 6 months to make the necessary adaptations to other provisions. This new law<sup>10</sup> regulates a range of situations of conflicts of interest and the resolving of them. It provides for arrangements for declaring personal interests and different incompatibilities and restrictions (restrictions linked to the leaving of one's position, the concluding of commercial contracts, the limiting of entertainment and gifts etc). Article 20 of the law provides for restrictions linked to the leaving of one's position (revolving doors/pantouflage). A number of officials (specified in article 3 of the law) are under obligation to notify the director of the public organisation they work for of any offers of work if that work might engender a conflict of interests. They may not gain profit not provided for in the law or their individual work contract thanks to the post they previously held, including through department-specific information obtained in carrying out their duties, in the event of seeking a place of work or another post if they no longer hold a public service post. The individuals listed in article 3 who have ceased fulfilling public service obligations and were directly assigned to the supervision or monitoring of certain companies during the previous year of work are not entitled to take up a post, for one year, in the administrative, review or supervision structures of those companies. Article 25 stipulates that the application of the law is to be monitored by a) the directors of public organisations; b) the Main Ethics Commission; c) other structures where there is provision in the legislation regulating the functioning of certain bodies.
51. As regards setting up an efficient system for monitoring declarations of interest, checks on the truthfulness of declarations of personal interest are carried out by the Main Ethics Commission

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<sup>10</sup> At the initiative of Transparency International – Moldova, which is a member of the National anti-corruption strategy monitoring group, the Chairman of the Monitoring Group asked the directors of seven public authorities (Ministry of the Interior, Tax Inspectorate, Customs Service, Ministry of the Economy and Commerce, Ministry of Health, Ministry of Education, Ministry of Territorial development) to carry out a survey in August into perceptions of conflicts of interests. The survey findings will be used in the framework of further training for public officials.

and, at its request – by the competent authorities. Directors of public organisations and the Main Ethics Commission are under obligation to take the necessary measures without delay to resolve conflicts of interest emerging in declarations and to inform the competent authorities. The Government was given 6 months to establish the new Main Ethics Commission and a draft law on its creation is currently being discussed by the Government. It is expected that the first declarations of interest will be submitted already in 2009.

52. As regards setting up an efficient system for monitoring declarations of assets (to be submitted under Law no. 1264 on the declaration and verification of incomes and assets, applicable to certain categories of public servants), the Moldovan authorities stress that, in principle, the Central Commission and departmental commissions responsible for monitoring run a preliminary check on declarations; if there is any doubt as to the truthfulness of the information, the matter must be referred to the CCECC and it is this body which is competent to carry out verifications of assets. The Moldovan authorities consider these arrangements to be efficient: the Central Commission has initiated a file in 2007 and two in 2008 (situation as of November). Nevertheless, it was decided in April and May 2008 to make the arrangements more transparent and, since that date, declarations must be published within 30 days following the submission deadline, in the journals and on the Internet sites of the authorities concerned (Judicial Service Council, Presidency, Parliament, Government, ministries and other authorities or public central and local institutions).
53. GRECO welcomes the adoption of the law of 15 February 2008 on conflicts of interest and the fact that it takes different types of situations into account, including the departure of public servants to the private sector. However, it cannot be concluded from the information provided that efficient monitoring systems have already been introduced for both conflicts of interest and declarations of assets: a) in the former case, while the law provides for the setting up of such monitoring (by a Main Ethics Commission and possibly by other authorities where texts so provide), it appears that the secondary texts necessary to ensure the existence of the Main Ethics Commission and the designation of other competent authorities mentioned by the 2008 law have not yet been adopted. It is apparent from the law (article 17) that the Commission does not carry out monitoring itself but must approach other competent authorities. The consequences in the event of failure to declare certain interests or to comply with other requirements are not known either; b) as regards the stepping up of monitoring of declarations of assets, the publication of those declarations since spring 2008 may indeed allow a degree of monitoring by the public, but GRECO doubts, in the context of acknowledged widespread corruption, that this alone would be sufficient to improve the efficiency of the system. In conclusion, substantial progress has been made on recommendation ix, but GRECO cannot conclude that this is sufficient where the question of efficiency of monitoring arrangements is concerned.
54. GRECO concludes that recommendation ix has been partly implemented.

#### **Recommendation x.**

55. *GRECO recommended to introduce clear rules that encourage all public officials to report cases of corruption and an appropriate system for protecting whistleblowers, and to review the manner in which reports are processed by the authorities, to ensure that the appropriate procedures are set rapidly in motion.*
56. The Moldovan authorities report that as regards the first part of the recommendation (*to introduce clear rules that encourage all public officials to report cases of corruption*), new provisions have

been introduced: a) article 18 paragraph 1 of Law no. 90-XVI of 25 April 2008 on preventing and combating corruption (in force as of 13 June 2008) reiterates the obligation imposed on officials (those listed under art.4 of the Law – see footnote 6 of paragraph 32) to report behaviour or acts linked to corruption to their superior, who has a responsibility to take the necessary measures or refer the matter to the criminal prosecution body or the prosecutor; b) the Law on the civil service code of conduct, no. 25-XVI of 22 February 2008 (in force as of 1 January 2009), stipulates that an official shall report any attempt to corrupt them to their superior, or directly to the competent authorities. A draft law no. 1642 dated 3 May 2007 aims to amend the Criminal Code with a view to introducing the liability of heads of public sector entities for failing to report illegal acts.

57. As regards the second part of the recommendation (*to introduce an appropriate system for protecting whistleblowers*), the Moldovan authorities recall the measures already in place to protect witnesses and informants in the framework of judicial proceedings. More importantly, as regards professional protection, article 18 paragraph 2 of the anti-corruption law stipulates that officials and other persons reporting themselves or other persons, in good faith, "shall be exempted from liability for disciplinary breaches, minor infringements or criminal offences in the conditions of legislation". According to the Moldovan authorities, this is a self-executing provision which does not require implementing legislation. In addition, a draft law on the civil service adopted on 4 July 2008 – but not yet in force – states that "a public official may not be sanctioned or penalised for reporting in good faith illegal measures emanating from their director". More detailed provisions will be included in the future law on whistleblower protection, for the drafting of which a working group has been created.
58. As regards the third part of the recommendation (*to review the manner in which reports are processed by the authorities, to ensure that the appropriate procedures are set rapidly in motion*), article 6 paragraph 2 of the anti-corruption law no. 90-XVI of 2008 stipulates that the public authorities are responsible for approving the necessary measures for facilitating the reporting of corruption; measures such as telephone hotlines for anonymous informants and special mail-boxes have already been established. The group working on whistleblower protection has already worked out a draft Regulation on the reporting of corruption and follow-up to such reports, which needs to be approved by the government. In addition, failure of the persons in charge (the managers) to report acts of corruption to prosecution bodies and the prosecutor is punishable, depending on the case, by sanctions for civil, disciplinary or minor offences provided for by the applicable texts (art. 17 of the same law). At present this is article 175-18 of the Code of administrative sanctions which makes it possible to sanction the directors of administrations and public entities for not reporting infringements. As indicated earlier, a draft law no. 1642, being examined by Parliament, is aimed at making a failure on the part of heads of public sector entities to refer such matters to criminal prosecution bodies a criminal offence.
59. GRECO takes note of the information provided and reiterates the reasons for making this recommendation<sup>11</sup>. Article 18 paragraph 1 of the new law has not altered the logic of reporting in

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<sup>11</sup> Para. 65 of the Evaluation Report: "..., civil servants are obliged to report to their superior any suspicions of corruption they may have. There are no suitable provisions on how to proceed when the superior himself or herself is the subject of such suspicions or has given an illegal order, or any appropriate sanctions in the event of a failure to report them. No case is known in which an official's or a superior's failure to report has led to sanctions. The GET agrees with some of its interlocutors that clear provisions should be introduced to ensure that public officials report their suspicions concerning breaches of the rules directly to the law enforcement authorities and that people who report suspicions of corruption in good faith (whistleblowers) are protected against reprisals. It also appears that the authorities do not always take proper criminal, administrative or disciplinary action on existing reports, which raises the question of how these reports are processed and the effectiveness of the procedures (especially as regards disciplinary investigations and co-ordination between disciplinary administrative, financial and criminal proceedings)."

Moldova, which means that the official must still go through their superiors, who decide on the action to be taken (and whether or not to refer the matter to the criminal prosecution authorities); it is not specified which possibilities are offered (informing directly the authorities etc.) to those who suspect their own superiors to be involved in the committing of a corruption offence. Where the protection of whistle-blowers is concerned (second part of the recommendation), the provisions included in the anti-corruption law of 2008 and those foreseen in the draft law on the civil service are a positive step but they are insufficient to ensure adequate protection. A specific draft on whistleblower protection is currently under preparation, possibly with more detailed provisions, which is to be welcome. Finally, GRECO notes that article 6 paragraph 2 of the anti-corruption law no. 90-XVI of 2008 takes the line desired by the third part of the recommendation and some concrete measures would have been introduced already (special hotlines and mailboxes); a new Act is being prepared by the government but globally, this third part of the recommendation has been addressed by Moldova. To conclude, GRECO considers that further measures are still necessary, or need to be finalised, as regards the first two parts of this recommendation.

60. GRECO concludes that recommendation x has been partly implemented.

**Recommendation xi.**

61. *GRECO recommended to establish a proper system for imposing professional disqualification in the case of convictions for criminal offences such as corruption, trading in influence and money laundering; ii) to call upon prosecutors to request bans on persons exercising managerial functions whenever this appears necessary; iii) to ask the courts to ensure that their decisions are transmitted to the State Registration Chamber as soon as they have become final, and; iv) to authorise the State Registration Chamber to monitor professional disqualifications throughout a legal person's existence.*
62. The information provided by the Moldovan authorities indicates that as regards the first part of the recommendation (*to establish a proper system for imposing professional disqualification in the case of convictions for criminal offences such as corruption, trading in influence and money laundering*), article 65 of the Criminal Code expressly stipulates that the adjudicating body in accordance with paragraph (3) of that article shall be entitled to apply this "if, in the light of the nature of the infringement committed by the guilty person when exercising their professional functions or while carrying out a given activity, it considers it impossible for that individual to retain the right to occupy given posts or undertake a given activity." The Moldovan authorities stress that this makes it possible to impose this supplementary sanction for corruption offences and trading in influence. This is a clarification since, in the evaluation report, this provision was cited as an argument by the Moldovan authorities, and not as a criminal provision. In addition, article 243 of the Criminal Code – which makes money laundering a crime – provides for the possibility of depriving the person found guilty of the right to occupy given posts or undertake a given activity for a period of 2 to 5 years (and for a legal person, a ban on exercising a given activity or the liquidation of the company).
63. As regards the second part of the recommendation (*to call upon prosecutors to request bans on persons exercising managerial functions whenever this appears necessary*), the Prosecutor General recently issued a general instruction along these lines (instruction no. 21-4d/07-9428-4 of 4 October 2007)<sup>12</sup>.

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<sup>12</sup> It invites prosecutors in criminal cases of corruption (or related to corruption) to call on the adjudicating instances to also apply a supplementary punishment (under article 65 paragraph (3) of the Criminal Code) depriving the guilty parties of the

64. As regards the third and fourth parts of the recommendation (*to ask the courts to ensure that their decisions are transmitted to the State Registration Chamber as soon as they have become final, and to authorise the State Registration Chamber to monitor professional disqualifications throughout a legal person's existence*), the Moldovan authorities indicate that the Code of implementation of judicial decisions (Law 443 of 3 March 2005) comprises a Chapter XIX (Articles 181 and 182) on the implementation of sentences disqualifying persons from the right to hold certain positions, and a Chapter XXIV on the implementation of sanctions imposed on legal persons. In accordance with these provisions, it is the responsibility of the Department of Execution (or its territorial offices) to implement judicial sentences and to make sure professional disqualifications are effective in practice, notably by conducting on site checks. It is also their duty (and not that of the courts') to transmit court decisions to the relevant bodies (including the Registration Chamber and the Chamber of Licences). Non compliance with these duties is punishable and the fact that the Registration Chamber was not receiving many disqualification decisions at the time of the on site visit was a consequence of the relatively low number of such court decisions rather than insufficient communication with the Registration Chamber. The Chamber of licences (which delivers permissions to legal persons and self-employed persons to carry out certain activities) is also informed of professional disqualification decisions, and as a consequence, it is required to withdraw the corresponding licence(s). The Registration Chamber is, every month, informed of these withdrawals and the information is included into the register. The various possible disqualifications included in the register, as well as the information contained in the criminal record (which must be presented to the Registration Chamber for every natural person entrusted with managerial functions) constitute a legal filter which makes it impossible for the Chamber of Registration – when a new entity is created or when there are changes in the management – to register a person contrary to professional disqualifications. Finally, every person employed in Moldova in the public or private sector has a labour book which also includes any possible professional disqualification decided by a court. The book must be presented to every new employer and the latter is required to comply with possible disqualifications (non compliance with this requirement can be sanctioned).
65. GRECO takes note of the clarifications provided as regards the content of article 65 paragraph 3 of the Criminal Code, which appear to make the first part of the recommendation largely redundant. As regards the second part of the recommendation, GRECO welcomes the fact that measures appear to have been adopted. The information and clarification provided in response to the last two parts of the recommendation suggest that strict requirements are in place to ensure that professional disqualifications are effective in practice, both when a legal person is created and when changes take place in the management structure.
66. GRECO concludes that recommendation xi has been dealt with in a satisfactory manner.

**Recommendation xii.**

67. *GRECO recommended to provide for the liability of legal persons for active corruption offences and trading in influence, in accordance with the Criminal Law Convention on Corruption; to clarify the application of the criminal liability of legal persons in money laundering offences; to plan more*

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right to occupy given posts or exercise a given activity. Where this concerns individuals who do not occupy a "post of responsibility" (lawyers, notaries, specialists in land regulations, doctors, educationalists etc), under certain conditions, the accusation laid by the State must also call, in addition to the indictments under which those individuals were brought to trial, for the application of a supplementary punishment, within the meaning of the provisions of article 65 para. (3) of the Criminal Code.

*training sessions on criminal liability of legal persons for judges and prosecutors in order to ensure its practical implementation; to provide for effective, proportionate and dissuasive sanctions; and to consider as soon as possible the establishment of a criminal record registry for legal persons.*

68. The Moldovan authorities report that as regards the first part of the recommendation (*to provide for the liability of legal persons for active corruption offences and trading in influence*), a draft law to supplement the Criminal Code was prepared and laid before Parliament on 3 May 2007; the draft provides for the application of the criminal liability of legal persons for additional offences, including those of article 325 (active corruption), article 326 (trading in influence) and article 334 (bribery in the non-state sector).
69. As regards the second part of the recommendation (*to clarify the application of the criminal liability of legal persons in money laundering offences*), Law no. 243-XVI of 16 November 2007, in force as of 14 December 2007, supplemented article 243 on money laundering with express provisions on the liability of legal persons for this type of offence and a list of sanctions including fines of between 7,000 and 10,000 conventional units (or 11,000€ and 15,400€), disqualification from the exercise of a given activity and the enforced liquidation of the company.
70. As regards the third part of the recommendation (*to plan more training sessions on criminal liability of legal persons for judges and prosecutors*), a course on "The problems that have emerged when prosecuting and judging offences committed by legal persons" was organised for all of Moldova's prosecutors from 1 to 4 April 2008. In addition, texts have been issued by the Prosecutor general's office (order dated 31 July 2008 approving a methodological guide, circular of 13 June 2008), sometimes in conjunction with other bodies (joint order of the Prosecutor general's office, the CCECC, the Customs Service and the Ministry of the Interior) to explain and facilitate prosecution actions against legal persons. The forms for registering criminal files have also been amended to include information on the legal persons implicated.
71. As regards the fourth part (*to provide for effective, proportionate and dissuasive sanctions*), the sanctions for laundering are specified above; no information is provided on the sanctions to be introduced for the offences of active corruption and trading in influence.
72. As regards the last part of the recommendation (*to consider as soon as possible the establishment of a criminal record registry for legal persons*), the Moldovan authorities report that, by order no. 125 of 28 March 2008, published on 24 April 2008, a single set of rules and format (for physical individuals and legal persons) were established for the recording of information on an existing criminal record.
73. GRECO believes that some progress has been made on this recommendation. However, the amendments extending the liability of legal persons to active corruption and trading in influence offences are still to be adopted, there is no report of measures for awareness-raising/training for judges and the theme of liability of legal persons should perhaps be included in the basic training programme for judges. Finally, the sanctions applicable to corruption offences have yet to be specified; it would be expedient for Moldova to ensure that the amount of fines envisaged (and those already introduced for laundering offences) are effective deterrents including where a powerful foreign company might be involved.
74. GRECO concludes that recommendation xii has been partly implemented.

### **Recommendation xiii.**

75. *GRECO recommended to establish as a criminal offence misrepresentation of accounting data associated with acts of corruption, in accordance with Article 14 of the Criminal Law Convention on Corruption (ETS no. 173), to provide for effective, proportionate and dissuasive sanctions and to improve the training of judges and prosecutors in this area.*
76. The Moldovan authorities reiterate the applicable provisions of the Criminal Code, the Tax Code and the Code of Administrative Infringements. They do not report any changes since the fact-finding visit, despite the adoption of a new law on accounting, no. 113 of 27 April 2007, whose article 44 provides for disciplinary, material, administrative or criminal liability of persons evading the keeping of accounts or intentionally falsifying primary documents, account ledgers and financial or annual reports. In response to the present recommendation, the CCECC has prepared a draft law intended to supplement the Criminal Code and establish as offences the acts and omissions set out in article 14 of the Criminal Law Convention on Corruption (ETS 173). The draft has been subject to expert appraisal and opinion of various authorities before being transmitted to the Government and then to Parliament.
77. GRECO takes note of the draft legislative amendment intended to remedy a number of shortcomings identified in the Evaluation Report (provisions applicable only to certain types of accountancy failings or specific contexts such as tax evasion, very weak sanctions etc). It encourages the authorities to push this draft through and provide for adequate sanctions as well as training for judges and prosecutors in this area, as called for by the recommendation.
78. GRECO concludes that recommendation xiii has been partly implemented.

### **Recommendation xiv.**

79. *GRECO recommended to issue guidelines for the tax administration in order to make sure that expenses related to corruption offences are not tax-deductible in practice.*
80. The Moldovan authorities point out that even though it is not expressly stated, the Tax Code already prohibits the deductibility of corruption-linked expenses. However, in response to this recommendation, the Chief Tax Inspectorate issued circular no. 17-2/1-13 of 29 September 2008 notifying tax inspectors and officers, with explanations and examples, that the deduction of expenses related to corruption offences is prohibited.
81. GRECO takes note of the Chief Tax Inspectorate's initiative, which satisfies the requirements of this recommendation.
82. GRECO concludes that recommendation xiv has been implemented satisfactorily.

### **Recommendation xv.**

83. *GRECO recommended to examine, in consultation with the auditors' and accountants' professional organisations, the measures that should be taken to improve the situation regarding the reporting of suspicions of corruption to the authorities (for example instructions and training on how to detect and report acts of corruption).*

84. The Moldovan authorities report that under Law no. 190 on preventing and combating money laundering and the financing of terrorism, in its new version of 26 July 2007, auditors, independent accountants and consultants in the financial field are bound by the obligations of that law, including the obligation to report suspicious transactions linked to laundering and the financing of terrorism to the Centre for Combating Economic Crimes and Corruption (CCECC). Above all, the Council for Supervising auditing activity at the Ministry of Finance adopted a special provision on 30 October 2008 (following discussion with the CCECC and the associations of auditors), which places auditing companies and auditors operating independently under obligation to report not only suspicious transactions but also any corruption offences to the CCECC. That provision entered into force after it was published in the Official Gazette on 14 November 2008. As far as independent accountants are concerned, the Moldovan authorities stress that this profession does not exist and that if the anti-money laundering legislation refers to it, it is mostly for reasons of consistency with the international standards and monitoring requirements. In practice, accountancy services are provided either by hired staff (even for a short period of time, for a small company, for the clearing of accounts) or by professional auditors. Where the latter is the case, auditors are always considered to be subject to the law and the special provision of 2008, no matter whether they perform audit or accountancy services..
85. GRECO takes note of the measures taken in October 2008 by the Council for Supervising auditing activity where the professionals in that sector are concerned. In particular, GRECO considers that the duty to report to the CCECC suspicions of corruption pursues the same objective as the recommendation. Also, there appears to be no real issue when it comes to the profession of accountants since this function is carried out in practice either by employees or by audit businesses (in which case the latter are always subject to the new measures adopted).
86. GRECO concludes that recommendation xv has been dealt with in a satisfactory manner.

### III. CONCLUSIONS

87. **In view of the above, GRECO concludes that Moldova has implemented satisfactorily or dealt with in a satisfactory manner almost two thirds of the recommendations contained in the Second Round Evaluation Report.** Recommendations iv, vi, xiv and xv have been implemented satisfactorily. Recommendations i, ii, vii, viii and xi have been dealt with in a satisfactory manner. Recommendations iii, v, ix, x, xii and xiii remain partly implemented.
88. GRECO is pleased to note that significant progress was achieved as regards such areas as the system of seizure and confiscation, the handling of corruption cases by the penal authorities, the inclusion of anti-corruption measures in the reform of public administration, the implementation of measures in favour of access to information held by public authorities, professional disqualifications and their control, the involvement of auditors in the detection of corruption offences and the non deductibility of tax expenses linked to corruption. In some of these matters, important clarifications have also taken place. In all the other areas for which recommendations have been issued, measures have been introduced but they remain insufficient or have not been finalised or adopted yet; this is the case, for instance, for the legislation on special investigative techniques, the inclusion to a broader extent of corruption in the anti-money laundering mechanisms, controls over conflicts of interest and asset declarations, the reporting of suspicions of corruption and whistleblower protection, or the incrimination of certain accounting offences or manipulations.

89. GRECO invites the Head of the delegation of Moldova to submit additional information regarding the implementation of recommendations iii, v, ix, x, xii and xiii by 30 June 2010.
90. Finally, GRECO invites the authorities of Moldova to authorise, as soon as possible, the publication of the report; to translate the report into the national language and to make this translation public.