

Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee)

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Post-monitoring Republic of Moldova Proposed revised roadmap

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¹ L: Chamber of Local Authorities / R: Chamber of Regions
EPP/CCE: European People's Party Group in the Congress
SOC/G/PD: Group of Socialists, Greens and Progressive Democrats
ILDG: Independent Liberal and Democratic Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

I. Introduction: the post-monitoring visit

1. As part of its activities to monitor the application of the European Charter of Local Self-Government (hereinafter “the Charter”) the Congress of Local and Regional Authorities (hereinafter “the Congress”) pursues a regular “post-monitoring” political dialogue with Council of Europe member states, the arrangements for which are set out in Resolution 353(2013), under which the Congress decided to carry out a post-monitoring visit to the Republic of Moldova.

2. A Congress delegation carried out a post-monitoring visit to Chişinău, Republic of Moldova, on 21 November 2019. It was composed of the rapporteurs on local and regional democracy, Ms Gunn Marit Helgesen (Norway, EPP/CCE) and Mr Marc Cools (Belgium, ILDG), who were assisted by Prof. Angel M. Moreno, Chair of the Congress Group of Independent Experts on the Charter, and the Congress Secretariat. This group of persons will hereinafter be referred to as “the delegation”.

3. The official post-monitoring visit took place on 21 November 2019. During the visit, the delegation conducted several interviews with ministers and top officials of the central administration, with members of the Moldovan delegation to the Congress, members of the National Parliament and representatives of the Moldovan Congress of Local Authorities (CALM). The detailed programme of the visit appears as Appendix I to this document. The delegation would like to thank all the interlocutors they met during the visit for their warm welcome and for the constructive dialogue developed during the meetings.

II. Past action: previous monitoring and fact-finding visits

4. The Republic of Moldova signed the Charter on 2 May 1996 and ratified it on 2 October 1997. The Charter entered into force in Moldova on 1 February 1998. When ratifying the Charter, Moldova did not make declarations in respect of any article of the Charter (on the basis of Article 12, paragraph 2), nor did it make use of Article 13 (in conjunction with Article 16) with regard to confining the scope of the Charter either territorially or to specific categories of local authorities. Accordingly, Moldova has been legally bound by all the articles of the Charter since 1998.

5. In the area of local and regional democracy, Moldova has also signed and ratified a number of Council of Europe treaties and protocols, among them the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106), which was signed on 4 May 1998 and ratified on 30 November 1999 (entry into force for Moldova on 1 February 2000). Moldova has also signed and ratified the Additional Protocol and Protocol No. 2 to that Convention.

6. In the past, the Republic of Moldova has been the subject of successive monitoring visits by the Congress which gave rise to Recommendations 179 (2005) and Recommendation 322 (2012). In this latter recommendation, the delegation noted with satisfaction “the progress made in the Republic of Moldova since Recommendation 179 (2005), in particular the measures launched by Parliament in the form of an action plan in response to all of the Council of Europe recommendations”.

7. In recent years, the overall situation of local democracy in the Republic of Moldova has, unfortunately, become a recurrent focus of attention for the Congress, due, among other things, to several complaints made both by the national association of local authorities (CALM, *Congresul Autorităţilor Locale din Moldova*) and by individual mayors and local leaders. In this regard, on 30 and 31 August 2017 a Congress fact-finding visit was made to Chişinău in order to find out first-hand about the situation of Mr Dorin Chirtoacă, Vice-President of the Congress and Mayor (*primar general*) of the city of Chişinău,² which gave rise to Recommendation 411 (2018)³ on the situation of local elected representatives in the Republic of Moldova and to Resolution 420 (2017)⁴ on the clarification of the conditions surrounding the suspension of the Mayor of Chişinău, where several violations of the Charter were established.

8. On 13 December 2017 another Congress delegation carried out a second fact-finding visit to Chişinău.⁵ As a result of these visits, the Congress adopted Recommendation 411 (2018),

2 Rapporteur: Gunn Marit Helgesen, Norway (R, EPP/CCE).

3 Debated and adopted by the Congress on 27 March 2018, 1st sitting (see Document CG34(2018)09, explanatory memorandum), co-rapporteurs: Marc Cools, Belgium (L, ILDG) and Gunn Marit Helgesen, Norway (R, EPP/CCE).

4 Debated and adopted by the Congress on 1 October 2017 (rapporteur: Gunn Marit Helgesen).

5 Rapporteurs: Ms Gunn Marit Helgesen, Norway, EPP/CCE and Mr Marc Cools, Belgium, ILDG.

of 27 March 2018. This highlighted, inter alia, that *“the situation of local democracy has substantially deteriorated in Moldova since the last Congress monitoring report (2012)”*.

9. The last monitoring visit took place from 12 to 15 June 2018. It resulted in Recommendation 436 (2019), *on local and regional democracy in the Republic of Moldova*, of 4 April 2019,⁶ in which the Congress expressed concern about the trend towards re-centralisation and the unsatisfactory level of local democracy in the Republic of Moldova, including the very limited fiscal autonomy and resources of local authorities, which made them dependent on State transfers and subsidies. In this Recommendation, the Congress pointed out a number of shortcomings, including the very limited fiscal autonomy and resources of local authorities, which made them dependent on State transfers and subsidies. It also criticised the lack of precision of the grounds for triggering local recall referendums, which meant mayors worked under the permanent threat of such referendums. In addition, the Congress regretted the State’s significant interference in local affairs through too frequent and discretionary supervision. Of special concern was the fact that no appropriate consultation mechanisms could be identified between central government and local authorities. Another issue of concern was that the political context for exercising mayoral functions in the country was still negatively affected by the widespread practice of bringing criminal prosecutions against mayors and other local representatives.

III. The political context of the visit

10. As an initial important remark, reference should be made to the political situation in the Republic of Moldova. This is relevant not only in order to understand the state of completion of the administrative reforms planned in the past, but also to assess the Government’s political strength for carrying out the desired reforms in the coming months.

11. This post-monitoring visit took place in the middle of a specific political situation in the country. Just four days beforehand, Moldova’s parliament had approved a new government, led by former finance minister and presidential adviser, Ion Chicu. Mr Chicu was appointed by the President of the Republic, Mr Igor Dodon, on 13 November 2019.

12. The day before, the pro-Western cabinet of Prime Minister Maia Sandu lost a confidence vote in Parliament after just five months in office, increasing the country’s instability. The no-confidence motion was tabled by the PSRM party on 8 November, after Ms Sandu’s cabinet had changed the procedure for appointing the prosecutor-general, under which the prime minister would nominate candidates for the position. The vote of non-confidence was successful, and a new government was formed. It is relevant to note that Ms Sandu’s government itself was also somewhat short-lived since it had come to power only five months before (in June 2019) after ousting the cabinet of Pavel Filip, who was supported by the then governing party, the Democratic Party of Moldova (PDM).

13. The new government is described by observers as “technocratic”, in the sense that most of the new cabinet members (including the Prime Minister himself) are not high-profile political figures but have had previous experience in top government positions. For instance, Mr Chicu served as finance minister until five months ago; more than half of the new government’s members are former advisers of the President of the Republic and some held ministerial positions in the PDM government that was ousted in June 2019. According to some media, the new Prime Minister stated that his minority government would have a transitional role until the next presidential elections.⁷

14. This new political development forms part of the climate of political instability characterising the country, where 10 governments have been formed in just nine years. This new alliance between the pro-Western and pro-Russian parties came about after months of political uncertainty prompted by the inconclusive national elections held in February 2019, where no political party obtained a clear majority.

15. The government is new and came to power in an unscheduled manner explains why it lacks clear ideas on several issues relating to local public administration. At the same time, the unscheduled change in government casts doubt on the continuity of the previous governments’ decentralisation plans, strategies and commitments.

⁶ See: Report CG36(2019)15final (Rapporteurs: Ms Gunn Marit Helgesen, Norway, EPP/CCE and Mr Marc Cools, Belgium, ILDG).
⁷ <https://www.rferl.org/a/moldovan-parliament-approves-new-technocratic-government/30271333.html>

16. The post-monitoring visit was carried out with the new government's open and proactive agreement, which may be interpreted as a very positive sign. The programme of the visit is appended to the present roadmap.

IV. The traditional methodology and the new approach

17. The national authorities of the Republic of Moldova have in recent years approved several strategic policy documents that have formed the framework for decision-making in the area of local government reforms. This approach has constituted the traditional context for decisions on the country's local government reforms. In particular, mention should be made of the following key documents:

a. The National Decentralisation Strategy (NDS), approved in 2012 by the Moldovan Parliament by the organic law and prolonged until 2018, is a long and comprehensive policy document with a main text and several appendices. It was supposed to be the principal reference document for local public administration policies, determining the national decentralisation mechanisms for ensuring genuine local self-government. The strategy first took stock of the situation, determining general problems and trends. It then devised principles and objectives in different areas of action (decentralisation of services and functions, financial decentralisation and the like). Thirdly, it identified macro-objectives, the different stages of the reforms and the institutional implementation framework (including thematic working groups and the establishment of a joint committee on decentralisation), the monitoring approach (including "pilot projects") and the assessment methodology. Most of the tasks in terms of implementation of the strategy were the responsibility of the State Chancellery's Division for Decentralisation Policies.

b. The Action Plan for 2012-2015 (revised in 2016 and prolonged until 2018 by the Parliament) was included as part of the NDS and identified the concrete reforms, actions and initiatives necessary to fully implement the NDS. It was followed by the "Action Plan for implementing the Public Administration Reform Strategy for 2016-2020", which contained around forty different concrete measures.

c. Another important step that needs to be mentioned here is the "Roadmap for local government and decentralisation in the Republic of Moldova" (2016). This Congress document set out the Moldovan authorities' response to Recommendation 322 (2012) and included for each of the different points the latter raised a set of recommended measures to continue the local government reforms. It was signed in July 2016 by the Congress, the Government of Moldova and the Moldovan Congress of Local Authorities (CALM) and was supposed to last until 2016.

18. The state of implementation of these policy and strategic documents needs to be considered. With regard to the extent of implementation of the National Decentralisation Strategy and of the measures included in the two Action Plans approved so far, there was disagreement between central government representatives and CALM. The former (the State Chancellery) maintained that roughly 45% to 50% had been achieved in the last few years, while the latter claimed that a very few practical actions had been completed and even in the text of the Public Administration Reform Strategy for 2016-2020, approved by Government, recognise directly that only up to 50% of action plan of NDS was implemented. Moreover, no rigorous progress reports showing precise figures or percentages had been completed either, so it is hard to identify which precise measures or initiatives have been implemented and which have not.

19. In any case, both sides agreed that the NDS is no longer a valid reference document. They also shared the view that the NDS was too ambitious and that it had already become an obsolete policy paper. The government would like to develop a new "approach" to decentralisation and implement it as fast as possible.

20. This new period of reforms will need to be based either on a new strategic policy document or on a more modest and pragmatic package of reforms with a short timeframe. The latter option seems to be preferred by all the stakeholders. The "old" approach, consisting in preparing and approving long-term, ambitious and comprehensive "strategies" should be abandoned, as the strategic goals are very hard to achieve in Moldova due to the changing and volatile political situation, the complexity of the changes envisaged and the nature of the obstacles to the reforms (some of them being macro-economic).⁸ It is hard to make long-term plans and to implement long-term strategies in a country that suffers from all too chronic political instability and repeated changes of government in short time spans. The new

⁸ For instance, the high number of young people emigrating, the weak tax base in rural areas, etc.

approach consists in preparing a short, concrete and feasible package containing a reduced number of measures (maximum of 10-12) that could be implemented in the next two years or so.

21. In this new period, the government wants to ensure greater financial autonomy for local authorities, too, without creating unfair tax situations. The cabinet is also committed to reviewing the legislative framework distributing powers and responsibilities between the first and the second tiers of local government.

22. Finally, the possibility of setting up a specific ministry for local authorities or for public administration, was unanimously rejected by the stakeholders, based on past experience. At the same time, it seems unrealistic to expect that the State Chancellery will be ready to pass on its current powers in the matter to another new ministry, so it will have to play a pivotal role in the desired future reforms.

V. General assessment of the situation

23. Analysis of the situation of local government has revealed it is unsatisfactory in various areas. In principle, general reference may be made to Congress Recommendation 436 (2019), on local and regional democracy in the Republic of Moldova, and to the explanatory memorandum appended to it.

24. Special reference should be made here to an unsatisfactory situation repeatedly highlighted by the various monitoring visits, namely the frequent opening of criminal investigations against mayors and vice-mayors. Recourse to this instrument may have dramatic consequences in some cases, such as that of the former mayor of Chişinău, Mr Chirtoacă.⁹

25. During this post-monitoring visit, the delegation was informed that many criminal investigations (“*dosar penal*”) opened against local elected representatives are subsequently closed with no clear penal consequences, even before the cases come to trial, so it seems these investigations are used as an instrument for threatening those representatives. One interlocutor maintained that only 6% of all criminal investigations opened against local political representatives end up in a conviction. This low rate could be interpreted to mean that many of these investigations are opened without good or serious cause, or that decisions to open cases are frequently taken without there being substantial evidence supporting them.

26. It was also reported that the pressure on local politicians has apparently declined more recently. It seems that the situation has calmed down but it cannot be said that the issue has been completely resolved. According to some interlocutors, this is part of the country’s overall political environment. It seems to be a systematic feature, irrespective of what government is in power, and very difficult to redress merely by changing the law, since the problem is more a matter of the implementation and enforcement criteria employed by public prosecutors and members of the judiciary.

27. In Recommendation 436 (2019) the Congress already underlined the importance of refraining from any kind of pressure against local elected representatives and finding a more appropriate balance between the fight against corruption and the requirements of local democracy, so that the bringing of criminal charges against local elected representatives does not disrupt local political life,

28. The special nature of the Autonomous Territory of Gagauzia should also be specifically mentioned. As far as it is concerned, the Government has issued a very positive assessment of the institutional design and degree of autonomy enjoyed by the region, which on 23 December 2019 celebrated the 25th anniversary of the Act on the Special Legal Status of Gagauzia, passed in 1994.

29. The situation of Gagauzia’s autonomy is not assessed in such positive terms by the authorities in Comrat. For instance, the *Bashkan* of Gagauzia (the head of the regional government and highest representative of the region) pointed out that there were some matters of concern, such as deficiencies in the region’s legal framework and a certain lack of constitutional protection for its autonomy. She mentioned as an example that in 2015 a special joint body with equal representation of the National Government and Gagauzia was established with the aim of negotiating legal initiatives to develop the self-government of the region. However, the *Bashkan* complained that too many legal initiatives - agreed previously within the aforementioned joint body - were subsequently blocked by the Parliament in 2019. She claimed that the central institutions lacked real willingness to develop and protect Gagauzia’s autonomy. As far as the local authorities in Gagauzia are concerned, she also made

⁹ See references at point 2, above.

a strong plea in support of local self-government as regards the sphere of action that depends on the regional government.

VI. Next steps and revised roadmap for future reforms

30. As pointed out above, the traditional methodology with regard to local government reforms has been dropped by the Moldovan authorities and a new approach is now preferred. The country's particular political and government situation (described above) makes it advisable to change the direction and structure of the usual "roadmaps" based on post-monitoring visits. The delegation concluded that the document to be produced should be shorter and include concrete, feasible measures, so the paragraphs below set out a list of specific short-term measures that may form a "package" of recommended initiatives and reforms. They are grouped together thematically, and reference is made to their links to Recommendation 436 (2019). However, some proposed measures are not strictly linked to that recommendation, as they were prompted by the discussions with the Moldovan interlocutors. It is also important to establish a very clear and effective mechanism for periodic reporting and monitoring of a way to implement the measures mentioned in this roadmap.

Continuing the local government reforms (5.a)

RECOMMENDATION 436 (2019) invited the Moldovan authorities to:

a. get back on the path to decentralisation through appropriate and full implementation of all previous Congress recommendations: 179 (2005), 322 (2012) and 411 (2018), as well as through the devolution of competences to the local level, and speed up the process of meeting the objectives approved in the National Strategy of Decentralisation and other relevant policies

31. As noted above, all the national stakeholders agreed that the National Decentralisation Strategy is no longer a reference document and that it has become outdated and obsolete. Nevertheless, the delegation identified good will on the part of the new government and a genuine desire to continue along the path of reforms in the area of local government and local democracy. The ministers and senior government officials that attended the meetings stated that the government was fully committed to fulfilling Moldova's commitments towards international organisations and partners. In particular, the interlocutors with whom the rapporteurs spoke praised the importance of maintaining and reinforcing the co-operation with the Council of Europe.

32. Local government is perceived by the national authorities as a structural and recurrent problem in Moldova and as an unfinished project. They acknowledge that there have been erratic changes in the territorial reforms between 2000 and 2019. The new Chicu government wants to consolidate local government and give local authorities more administrative and financial autonomy. Accordingly, the relevant ministries and the State Chancellery spoke clearly about the need to have strong and autonomous local government since this is perceived as an essential tool for the country's social and economic development. The ministries expressed the government's strong desire to pursue the territorial reforms leading to stronger local government in Moldova and made clear calls in support of decentralisation.

33. It remains to be seen, though, whether the present cabinet will last until the next regular elections (scheduled for 2023), considering the national climate of political instability. It is also unclear whether it will limit itself to acting merely as a "transitional government" until the next elections or whether it has enough political muscle to undertake the reforms needed by the country, especially in the area of decentralisation and local government.

34. As regards legislative power, there is a specific Parliamentary Committee on Public Administration, which plays a key role in the discussion and approval of legislative proposals concerning local administration. It is composed of 10 MPs from different political parties. Apparently, the Parliament takes its recommendations into account. Representatives of that committee also shared the view that there is a need to give local authorities more autonomy. At the moment, there is no any effective mechanism at the level of Parliament.

35. As far as the views of local representatives with respect to the recent change in government are concerned, senior CALM officials complained that they had analysed the new government's programme

political agenda and did not see any mention of local authorities and decentralisation or of continuing the decentralisation process. They said that in future they would prefer the adoption of concrete measures, instead of ambitious plans. The CALM representatives expressed their disenchantment about two decades of plans and strategies that did not work and, in their view, were not implemented in practice. They did, however, express their satisfaction and hope at the oral statements made during the meetings by the ministers and top government officials in favour of continuing the efforts towards decentralisation.

Recommended action:

Evaluation of the implementation of the National Decentralization Strategy for the years 2012-2018 (point 3.16.3 of the Government Action Plan for the years 2020-2023);

Target: Study performed; proposals to change the policy framework presented;

Deadline: October 2021.

- Elaboration of the draft strategic document in the field of consolidation of local autonomy (point 3.16.4 of the Government Action Plan for the years 2020-2023);

Target: Government Decision approved;

Deadline: October 2023.

Consultation and intergovernmental dialogue (5.i)

RECOMMENDATION 436 (2019) invited the Moldovan authorities to:

b. reinstate a fair consultation process with local authorities and political dialogue, in order to come to an agreement on the planned measures which may affect the interests of local authorities;

36. It seems that the pattern of dialogue between central government and CALM has been restored, and both stakeholders agreed on this. A “platform” for dialogue between central government and CALM has been established. The rapporteurs regard this development as a promising and very positive step forward, especially in the light of the points made in Recommendation 411 (2018), which identified a clear deterioration in the intergovernmental dialogue between the two parties.

Recommended action:

Strengthen a platform for communication and consultation of public policy options in the field of LPA;

Target: Functional platform;

Deadline: December 2021.

Mandatory consultation of LPA representatives in the decision-making process by the central public administration, which targets the competencies of the local public administration.

Proposed target: No. of projects consulted with LPA authorities;

Deadline: permanent, during the year.

Revision and clarification of local powers and responsibilities (5.d)

RECOMMENDATION 436 (2019) invited the Moldovan authorities to:

c. revise and clarify the system of local competences, in order, *inter alia*, to avoid situations of overlap between local and central competences, and to ensure concomitant finances to local authorities;

37. After so many territorial reforms and policy papers, the existence, role and number of “districts” (*raioane*) or second-tier local authorities are still a matter of controversy. Government interlocutors concede that there is some disagreement on these second-tier authorities (especially their number and competences). In any case, the actual shape and institutional model of those local authorities are still a matter of political controversy.

38. In this area again, it seems that the powers and responsibilities of first- and second-tier units of government are not clearly defined and distinguished, so there is still some overlapping in the respective spheres of action of both types of local body. In addition to the question of the powers and responsibilities of the districts (*raioane*), there are still some mismatches and imbalances between *raioane* and municipalities. For instance, the delegation was told that *raioane* currently receive much more money from the State budget for road construction and maintenance than towns, smaller municipalities and villages, even though they are responsible for fewer kilometres of road. It was also pointed out that some of the powers and responsibilities traditionally assigned to *raioane* have been transferred to municipalities or towns, but apparently the *raioane* still have the same staff.

39. The delegation was also informed that there is no longer any relationship of subordination between *raioane* (second-tier local authorities) and towns, municipalities and villages. As a result of recent legal and regulatory amendments, *raioane* now have limited involvement in determining the budgets of the first-tier local authorities.

Recommended action:

Set up a group of experts in the State Chancellery that would discuss the necessary amendments to be introduced in the legal framework governing local authorities and decentralisation, in order to clarify and clearly distinguish the powers and responsibilities of first- and second-tier local authorities (*raioane*). This group could be composed of government officials, academics, professional experts and members of representative associations of LPAs, including representatives of level I and II LPAs.

Relaunch the consideration by the Parliament of the Republic of Moldova of the legal initiatives prepared by the joint working group, set up in 2015 by the national government and the ATU of Gagauzia, with the objective of ensuring the effective implementation of the statutory competences of Gagauzia and developing its regional self-government.

Proposed deadlines:

Target: produce a comprehensive set of proposals for legal and regulatory amendments to be submitted to the cabinet before the end of 2021.

The proposed deadlines for this measure are as follows: the group of experts could produce in four months a comprehensive document proposing concrete legal amendments to the set of laws and regulations on local governments.

Ideally, the group could co-operate with the aforementioned Parity Commission.

Results should be due to be delivered in the summer of 2021.

Increase the financial resources of local authorities (5.b)

RECOMMENDATION 436 (2019) invited the Moldovan authorities to:

d. allocate sufficient financial resources to local authorities, in line with the principle that the resources should match the functions;

40. The various monitoring visits conducted by the Congress to the Republic of Moldova have identified several unsatisfactory aspects of local finances in structural terms.¹⁰ For the most part, these structural shortcomings remain unchanged: *inter alia*, the all-too limited volume of public spending at local level, the very reduced volume of “own resources” as a proportion of local authorities’ total revenues and the fact that local authorities are too dependent on transfers allocated from the State budget.

41. It is therefore necessary to point out that the Network of Associations of Local Authorities of South East Europe (NALAS), of which CALM is a member, has periodically carried out studies on local finances in the countries in that part of Europe and develops indicators for the budgets and the finances of local authorities. According to the latest edition of its report,¹¹ Moldova clearly lags behind with regard to many indicators, for instance, in terms of the percentage of local budgets as a proportion of total public sector spending.

42. As regards the percentage of local authorities’ “own revenues” as a proportion of their total income, the figure was 12% in both 2014 and 2015, which was very far from the usual figures in this area across Europe.¹² Another telling indicator is the proportion of State transfers in the budgets of local authorities, which was around 66% in 2016 and was probably the highest percentage in the region.¹³ As most of those transfers are block transfers, local authorities do not have any real ability to act or to adapt the transfers to local needs, as many of them are earmarked. To sum up, the report states that “In 2015 and 2016 Moldovan local governments have been pushed to the edge of bankruptcy”.¹⁴

43. Another matter of concern for some of the delegation’s interlocutors was the fact that central government distributes investment funds among local authorities in a non-transparent and non-objective manner. We refer here to the Environmental Fund, the Road Fund, the Energy Fund and the Regional Development Fund. These funds do not form part of the ordinary system for local revenues and, according to local representatives, the possibility of obtaining money from them seems to be subject to political and personal considerations.

44. However, not all impressions gained by the delegation in this regard were negative, and on some matters some progress was noted. To begin with, the delegation was informed by the Minister of Finance that Moldova had been taking action to ensure better financial management for local government and that a new model benefiting the local authorities was in place.

45. For example, under some legislative proposals included in the State Budget Act for 2020, 100% of personal income tax will remain in the hands of local governments (the percentage may vary according to the type of local authority and there are specific percentages for Bălți and Chișinău). Moreover, 10% of corporation tax will also be allocated to local governments. The draft budget was due to be approved one week after the visit (that is, by the beginning of December 2019) and these measures were intended to give more stability to the finances of local authorities. According to some government officials, these legislative proposals were the result of negotiations between the government and CALM, a point which the latter did not dispute. The rapporteurs regard this as a very positive development.

46. It remains to be seen whether these legislative amendments included in the State Budget for 2020 form a stable legal framework or whether they need to be renewed every fiscal year. In order to give more stability to the finances of local authorities, a number of measures are recommended.

10 See: Recommendation 436 (2019), paragraphs 4(b) and 4 (c). See, also Explanatory Memorandum, pages 23 to 28.

11 See: Network of Associations of Local Authorities of South East Europe (NALAS): *Fiscal decentralisation indicators for South-East Europe: 2006-2014*, 6th edition, 2017.

12 NALAS, op. cit. page 102.

13 NALAS, op. cit. page 103.

14 NALAS, op. cit., page 98.

47. Staying with positive news, the delegation was also informed that the formula for calculating the transfers for road infrastructure would be amended and improved in the future. In particular, these financial resources will no longer be considered as a “special transfer” but as a “general transfer”. In this way, if a given local authority does not spend all the funding received in this connection in a given fiscal year, it will be able to keep it and spend it during the following fiscal year and will not lose the surplus, as it does at the moment. However, it was unclear to the delegation whether this is just a prospect or an actual legal amendment already in force.

Recommended action:

To take steps and approve regulatory or legal initiatives aiming at increasing the stability of the participation that local authorities have in the collection of State taxes, with the aim of attaining a stable, multi-annual framework.

Transform the current block grants of the Environmental Protection Fund and the Energy Fund into general, unconditional grants.

Proposed deadline: end of June 2021.

Increasing the fiscal capacity of local authorities (5.c)

RECOMMENDATION 436 (2019) invited the Moldovan authorities to:

e. increase the fiscal capacity of local authorities by enabling them to establish local taxes and to determine their rate and by clarifying the delimitation of municipal lands to allow their re-evaluation for tax purposes;

48. The lack of adequate cadastral valuation of real estate was identified as a very unsatisfactory factor by previous monitoring visits, as this aspect is instrumental in the collection of property tax. In most villages, properties have never been valued, so the local authorities are unable to collect the tax. In addition, in the countryside there are many small settlements where the villagers are elderly and poor and have limited ability to pay taxes.

49. The changes to the system of the property taxation in Moldova introduced in 2000 did not improve the situation in rural communities. In fact, the real estate in rural areas had not been evaluated, and the amount of financial resources the rural communities have had to spend on collecting the real estate tax has exceeded the amount of revenue it generated.

50. In this area, the delegation was pleased to hear about a project (financed by the World Bank) that will make a decisive contribution to fixing this problem. It aims at re-valuing all properties in the country or at valuing properties in places where this has never been done before (mainly in rural villages). According to the Ministry of Finance representatives, this will not cost local authorities anything, as it will be implemented by means of a loan from national government. The project will last for at least five years.

Recommended action:

Support with all possible economic and technical means the project to delimit municipal land and the valuing or re-valuing of properties in the country.

Consider simplifying and adapting real estate taxation system to the needs of rural communities.

Submit legislative proposals to Parliament aimed at developing the system of local taxes.

Target: draft law for amending some legislative acts elaborated and approved;

Deadline: December 2021.

Measures aimed at increasing the institutional stability of local political life:**Reform of legislation on local recall referendums (5.f)**

RECOMMENDATION 436 (2019) invited the Moldovan authorities to:

f. adopt the necessary legal and regulatory arrangements to avoid the possible distorting consequences of the application of local recall referendums in local political life; and in the meantime, revise the legal provisions regulating the grounds for calling a local recall referendum (Article 177.2 of the Electoral Code), in order to provide for more legal certainty and to reduce the scope of discretionary decisions in triggering such popular consultations;

51. The problem of local recall referendums in the Republic of Moldova has been analysed at length by the Congress, especially on the occasion of the two fact-finding visits carried out in 2017 and in the monitoring visit conducted in June 2018 (see section II above). As on many other points, no change or improvement was noted by the delegation during the post-monitoring visit, so it seems appropriate to issue a reminder about reforms suggested previously.

Recommended action:

Modify the present legal framework governing local recall referendums (Article 177 of the Electoral Code) in the light of the Venice Commission's Opinion on the recall of mayors and local elected representatives,¹⁵ in order to improve, clarify and give more legal certainty to that framework. The grounds for triggering the process should be precise and predictable, in order to avoid any risk of arbitrary action.

Deadline: November 2021.

Reform of legislation on the position of mayor

52. During the discussions that took place during the post-monitoring visit, reference was made to a situation perceived as harmful, namely the fact that mayors very frequently switch from one party to another once they are in power. Usually, they change to the party in charge of the State institutions, with the hope of having more opportunities to receive government funding. These changes in political affiliation have a very negative impact on the image and reputation of the position of mayors, fail to respect the results of local elections and erode the political dynamics at the local level. Greater stability in the political affiliation of local leaders would be desirable.

Recommended action:

Modify the local government legislation so that a mayor is not able to change his/her political affiliation during his/her term, or at least during the first two years of that term. Alternatively, such changes in affiliation should be made possible, but strict and objective conditions should be introduced here.

Introduce legal safeguards to prevent the practice of frequent opening of criminal investigations against mayors and local elected representatives on unreasonable grounds and without substantial evidence, since this is inconsistent with the principle of a free exercise of the local mandate and can amount to a means of political pressure.

Deadline: November 2021.

¹⁵ CDL-AD(2019)011rev, Report on the recall of mayors and local elected representatives, adopted by the Council for Democratic Elections at its 65th meeting (Venice, 20 June 2019) and the Venice Commission at its 119th Plenary Session (Venice, 21-22 June 2019).

Enhancing the managerial capacity of local authorities (5.g)

RECOMMENDATION 436 (2019) invited the Moldovan authorities to:

g. increase the managerial capacity of local authorities, by giving them more freedom and flexibility in the management of their human resources, so that the local authorities could offer training opportunities and adapt and upgrade the remunerations of their own staff members, as well as their career prospects;

53. The remuneration system in local public administration is a matter of concern. As underlined in the explanatory memorandum resulting from the 2018 monitoring visit, there is a significant gap between the pay earned by central government employees and that earned by local government staff, the former being higher than the latter. It was also once again noted that the system of remuneration for local officials is highly centralised, which leaves less leeway for local politicians in the field of human resources. At this point mention should be made to the adoption of the Law No270/2018 on the unitary salary system in the budgetary sector adopted the Law No.270/2018 on the unitary salary system in the budgetary sector. The principles underlying the Law are:

- a. to establish a reformed and simplified system of ranking in the budgetary sector, which includes occupational groups and salary ranks, populated with positions based on the results of their value assessment, with the main objective of promoting equal pay for equal work;
- b. to establish a single grid for all public authorities and institutions subject to this Law, defining the level of basic salary for all positions in all occupational groups;
- c. unitary control, according to which the heads of public authorities and/or institutions that are the object of this law cannot grant additional salary rights compared to those provided by law.

54. Another major problem is that Moldovan local authorities have a huge deficit in managerial capacity. An initial unsatisfactory aspect here is that the number of staff that a local authority may employ is strictly limited by national laws and regulations. The figure depends on the number of residents in the local community and there is no scope for increasing the cap. Government representatives ensured that, in the process of reforming the public administration system, all aspects of the organisational efficiency of the LPA will be analysed and feasible recommendations will be submitted by the Government.

55. One of the reasons for this lack of managerial capacity is the absence of a proper professional career path for local government employees and the lack of a comprehensive system of technical and vocational training at the local level. The training infrastructure for local officials is weak. There is no national training service or similar body for local employees such as those found in some European countries like France (CNFPT)¹⁶ and Spain (INAP).¹⁷ Nevertheless, there is a training division in the Ministry of Finance, which runs courses and training programmes for civil servants in general which local government employees may attend. This division provides training on specialised subjects such as IT, budgeting, accounting and financial management.

56. However, this does not seem enough if the goal is to increase the education, training and professional accountability of civil servants and employees working for the various local authorities. The ideal option would be to establish a specific School of Government with a special focus on local authorities, but this idea seems too ambitious for the moment.

57. In the Republic of Moldova, there is, in fact, an Academy of Public Administration that also provides training for civil servants, but it seems that it has a rather limited syllabus or section for local government employees and that the training programmes are not suited to the actual situations facing them. Some pragmatic measures are recommended below.

¹⁶ *Centre National de la Fonction Publique Territoriale* (National Centre for the Regional Civil Service).

¹⁷ *Instituto Nacional de Administración Pública* (National Institute of Public Administration).

Recommended action:

Government officials from the State Chancellery and the Ministry of Finance should review the remuneration system for local government employees and make concrete proposals to increase the salaries paid by local authorities to their staff. They should agree on a multi-year timeframe to gradually reduce the current gap existing between the pay of the central government civil service and local government staff. Concrete measures should be included in the 2021 State Budget Bill, which should be discussed with CALM as part of a consultation procedure (in accordance with Article 4.6 of the Charter).

If net salary increases for local officials are not feasible due to the country's macro-economic situation or budgetary constraints, a comprehensive set of alternative measures should be designed to supplement local officials' earnings with non-monetary compensation, for instance by granting them compensation in-kind, fringe benefits and other non-cash benefits. These measures may include "compensation" through paid leave and absences, reductions in working time, honorary promotions, national awards for good performance, bonuses and special prices in State cultural, tourist and leisure facilities, etc.

Both in order to increase local autonomy and to find alternative sources of work remuneration in local public administration, a flexible system of premiums and bonuses for local elected representatives and local employees shall be introduced.

In order to further increase the managerial capacity of local authorities, it is also recommended that the Ministry of Finance, the National Academy for Public Administration and CALM, agree on a comprehensive programme of tailored training courses, capacity-building programmes and activities specifically designed for local government employees. This is likely to be instrumental in improving the administrative abilities of those employees.

Other possibilities and options allowing for the development of a proper career in the local civil service should also be considered, such as setting up a national programme for exchanges of public employees, internships, trainee programmes for newly recruited employees, etc.

Another measure proposed in the field of local human resources management is to allow the transfer of local employees from *raioane* to municipalities (preferably to *raioane* capitals), especially to those that are clearly understaffed. The regulations for carrying out such re-arrangements should be drawn up.

Timeline for drawing up and introducing these measures: autumn 2021.

Raising the wages of local representatives (5.h)

Recommendation 436 (2019) invited the Moldovan authorities to:

h. raise the wages of mayors and district council presidents in order to offer a set of remunerations which are in proportion with the importance of their responsibilities;

58. The Delegation noted with satisfaction that the national authorities plan to increase the remuneration of mayors and vice-mayors. This would be possible under a new *Act on the unitary wage system in the public sector*, which has recently been approved. The aim of this law is to raise the salaries of mayors and vice-mayors in some municipalities with a population above a certain level (local authorities with more than 20 000 inhabitants). This legal reform was expected to come into force in 2020.

Recommended action:

- To ensure that the *Act on the unified system of salaries in the public sector* also covers the mayors and vice mayors of all Moldovan local authorities, including the small villages.
- Deadline for this initiative: July 2021.

DRAFT

APPENDIX

CONGRESS POST-MONITORING VISIT ON THE SITUATION OF LOCAL AND REGIONAL
DEMOCRACY IN THE REPUBLIC OF MOLDOVA

Chişinău, 21 November 2019

PROGRAMME

Congress delegation:

Rapporteurs:

Mr Marc COOLS

Rapporteur on local democracy
Chamber of Local Authorities, ILDG¹⁸
Municipal Councillor of Uccle, Belgium

Ms Gunn Marit HELGESEN

Rapporteur on regional democracy
Vice-President of the Congress
President of the Chamber of Regions, EPP/CCE¹⁹
County Councillor of Telemark, Norway

Congress secretariat:

Mr Jean Philippe BOZOULS

Director of the Congress of Local and Regional
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Ms Stéphanie POIREL

Secretary to the Monitoring Committee of the Congress
of Local and Regional Authorities of the Council of
Europe

Expert:

Prof. Angel M. MORENO MOLINA

Expert, Chair of the Group of Independent Experts on
the European Charter of Local Self-Government (Spain)

¹⁸ ILDG: Independent Liberal Democrat Group in the Congress

¹⁹ EPP/CCE: European People's Party Group of the Congress

Thursday, 21 November 2019
Chişinău

Opening remarks by:

Mr Aureliu CIOCOI, Minister of Foreign Affairs and European Integration
Mr Serghei PUSCUTA, Minister of Finance
Mr Adrian ERMURACHI, Deputy Secretary General, State Chancellery
Ms Regina APOSTOLOVA, Deputy Chair, Parliamentary Committee for Public Administration and Regional Development
Ms Irina VLAH, Bashkan (Governor) of the Autonomous Territorial Unit of Gagauzia

Discussion topics:

- Achievements and challenges on the implementation of the signed roadmap and on the Recommendation 436 (2019)
- Action Plan on the implementation of the Public Administration Reform Strategy for 2016-2020
- Proposal for the revised draft roadmap

Participants:

NATIONAL DELEGATION OF THE REPUBLIC OF MOLDOVA TO THE CONGRESS AND MEMBERS OF THE CALM

Ms Tatiana BADAN, Head of the Moldovan National Delegation to the Congress, Mayor of Selemet, Cimislia Raion, President of the CALM
Mr Gheorghe RAILEANU, Mayor of Cimislia
Ms Valentina CASIAN, Mayor of Straseni
Ms Violeta CRUDU, Mayor of Cruzesti village
Mr Grigore POLICINSCHI, President of the Region of Dubasari
Mr Vasile ROMANIUC, Head of Ocnita District
Mr Alexandr TARNAVSKI, Deputy Head of the popular Assembly of the Autonomous Territorial Unit of Gagauzia
Mr. Viorel FURDUI, Executive Director CALM
Mr. Alexandru OSADCI, Coordinator of international relations CALM
Mr Viorel GIRBU, expert at CALM

STATE CHANCELLERY

Mr Adrian ERMURACHI, Deputy Secretary General

MINISTRY OF FINANCE

Mr Serghei PUSCUTA, Minister
Mr Dorel NOVOC, Secretary of State

MINISTRY OF FOREIGN AFFAIRS AND EUROPEAN INTEGRATION

Mr Aureliu CIOCOI, Minister

PARLIAMENT OF THE REPUBLIC OF MOLDOVA

Ms Reghina APOSTOLOVA, Deputy Chair Parliamentary Committee for Public Administration and Regional Development

AUTONOMOUS TERRITORIAL UNIT OF GAGAUZIA (UTA GAGAUZIA)

Ms Irina VLAH, Bashkan (Governor) of the Autonomous Territorial Unit of Gagauzia