



3rd meeting, Brussels, 6 March 2018

JOINT DECLARATION

The EU-Moldova Civil Society Platform (CSP) is one of the bodies set up within the framework of the Association Agreement between the European Union and the Republic of Moldova (hereinafter "Association Agreement"). It enables civil society organisations from both sides to monitor the implementation process and draft its recommendations to the relevant authorities.

The third meeting of the CSP was held on 6 March 2018 in Brussels. The members of the CSP discussed the state of play regarding the implementation of the Association Agreement, held a debate and adopted reports on the transboundary water management of Dniester River and on the social impact of AA/DCFTA implementation.

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

1. take note of the 2017 Report on the implementation of the Association Agreement issued by the government of the Republic of Moldova¹, the alternative independent evaluations conducted by Moldovan CSOs² and of the EU Foreign Affairs Council Conclusions on the Republic of Moldova of 26 February 2018³;
2. welcome the adoption of the revised EU-Moldova Association Agenda⁴, setting out thirteen key priority areas for the reform process in the Republic of Moldova for the years 2017-2019, in line with the commitments undertaken under the Association Agreement, and call on the Moldovan authorities to ensure its timely and full and effective implementation;
3. note the fact, that according to government and civil society estimations, the implementation rate of the AA/DCFTA Action Plan and the Priority Reform Action Roadmap is rather poor and call on the EU to continue monitoring and to impose strict conditionality on the Moldovan authorities;
4. are concerned with the ineffective way the investigation and prosecution of the banking fraud of 2014 is taking place and with the slow progress in recuperation of the stolen assets;
5. take note of the signature of the Memorandum of Understanding, Loan Facility Agreement and Grant Agreement on the EU Macro Financial Assistance in November 2017, amounting to

¹ <http://www.mfa.gov.md/img/docs/Raport-consolidat-implementarea-2017-PNA-AA-2017-2019.pdf>.

² <http://ipre.md/2017/12/22/al-ii-lea-raport-alternativ-privind-implementarea-acordului-de-asociere-cu-ue-trimestrul-i-iii-2017> and https://www.expert-grup.org/media/k2/attachments/Raport_final_Monitorizarea_foii_de_parcurs_EN.pdf.

³ <http://www.consilium.europa.eu/media/32960/st06280-en18.pdf>.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22017D1489>.

EUR 100 million for 2017-2018⁵, that is complementary to the assistance provided by other international financial institutions and bilateral development partners to the Republic of Moldova in order to support economic stabilisation and the structural reform process in line with the objectives of the Association Agreement, including the Deep and Comprehensive Free Trade Area;

6. welcome the fact that each payment under Macro Financial Assistance will be subject to the fulfilment of the policy measures included in the Memorandum of Understanding and the respect of political preconditions, in particular as regards the functioning of effective democratic mechanisms, including a multi-party democratic system, the rule of law and respect for human rights;
7. note that even though the Moldovan authorities have made progress with important legislative measures in a number of areas provided by the Association Agreement since the last CSP meeting, a series of reforms adopted were nevertheless implemented either with delays or only in part and thus limited progress was achieved in delivering tangible results in key reform areas. These include: ensuring independent and accountable judiciary; fighting systemic cross-party corruption at all levels; addressing the politicisation of state institutions; ensuring transparency, accountability, resilience and good governance, including in the management of public finances; improving the competitiveness of Moldovan goods and promoting active labour policies for productive and decent work for all, as well as outstanding issues related to the electoral system reform, particularly the risk that majoritarian candidates may be influenced by business people or other parties pursuing their own private interests;
8. note with concern that the anti-corruption mechanisms in place are becoming less independent and efficient in fighting high-level corruption. In 2017, according to Transparency International, the Republic of Moldova recorded a Corruption Perception Index score of 31 points, ranking 122 out of 180 countries included in the ranking for comparison; the score had been thirty points in 2016;
9. note significant delays with regard to effective justice reform and anti-corruption efforts, mainly concerning the late adoption of the law on the prevention of money laundering and combating terrorist financing, as well as delays in ensuring efficient operation of the Agency for the Recovery of Criminal Assets;
10. regret that the loss of the EU budgetary support due to unfulfilled commitments failed to change the attitude of the Moldovan authorities, that procedures for the selection of judges are not merit-based, that criminal justice is still used to silence outspoken judges and enhance the prosecutorial bias in the judiciary, and that closed hearings in high-profile cases and selective persecution of political opponents are still practised;
11. are concerned about the lack of transparency in electing judges and academic lawyers to the Superior Council of Magistracy (SCM) and CSO representatives to the Superior Council of Prosecutors (SCP) that took place between October 2017 and February 2018. On 5 July 2016, the

Council of Europe's Group of States against Corruption (GRECO) published its fourth assessment report on the Republic of Moldova⁶. It found deficiencies in the way SCM and SCP members were selected; note that nothing has changed in the parliament procedures, as judges and prosecutors are not encouraged to participate and to compete in transparent and merit-based electoral procedures for SCM or SCP;

12. express concern that many critical areas under the government's Justice Sector Reform Strategy (2011-2017) have not been implemented due to insufficient political will; therefore, call on the EU to closely monitor and make any financial assistance conditional upon progress in the area of judicial reform, including stringently assessing compliance with the political and technical conditions for the provision of the committed macro-financial assistance, in the process taking into consideration evidence-based improvements in key judicial reform areas;
13. are alarmed by the appearance of new problematic trends particularly after 2015, with increased signs of selective justice, including the use of criminal justice to silence outspoken judges and enhance the prosecutorial bias in the judiciary;
14. welcome the appointment of the board of the National Integrity Agency; call on the authorities to ensure selection of integrity inspectors in due time, in a transparent and fair way, and approve the methodology for monitoring assets and interests as well as compliance with the legal regime of conflicts of interest, incompatibilities and restrictions;
15. conclude that the legislative amendments that resulted in the change in the electoral system were adopted while taking into account less than a third⁷ of the Venice Commission and OSCE/ODIHR recommendations. Limited transparency and flaws in the adoption of decisions regarding the establishment of single-member constituencies⁸ were noted, especially with regard to the establishment of the constituencies on the left bank of Dniester River, as well as in relation to voters residing abroad;
16. reiterate the earlier recommendation to the Moldovan authorities to review the political parties financing legislation, making sure there is no incomplete or unsatisfactory enforcement of the restrictions on the sources of financing, in particular by: (i) significantly reducing the thresholds in for financing in the form of donations for political parties by both legal entities and natural persons; (ii) prohibiting the financing of political parties by legal entities or natural persons who have benefited from the award of public procurement contracts; (iii) including an obligation on party donors to disclose the origin of funds, including the requirement that the donated funds should belong to the donor personally (no borrowed or otherwise obtained funds should be accepted from the donors); (iv) ensuring effective monitoring of political parties' assets and periodic auditing of the assets they use in election campaigns and beyond; (v) revising the mechanism for financing political parties from the state budget and clarifying the status of

⁶ <http://crjm.org/wp-content/uploads/2017/03/CRJM-17-03-09-Newsletter-11-ENG.pdf>.

⁷ Opinion of Promo-LEX Association: Only 12 out of 32 European Recommendations Regarding the Mixed Electoral System were Implemented <https://promolex.md/11482-opinia-asociatiei-promo-lex-doar-12-din-32-de-recomandari-europene-cu-privire-la-sistemul-electoral-mixt-au-fost-indeplinite/?lang=en>.

⁸ http://crjm.org/wp-content/uploads/2018/02/PUBLIC-CALL_eng.pdf.

electoral blocks and of independent candidates as beneficiaries of support funds for political activity from the state budget; (vi) explicitly defining abuse of administrative resources and extending the range of sanctions and penalties applicable to political parties for using administrative resources so that they would be also applicable at times other than election campaigns; (vii) regulating political advertising in the time between elections so that advertising would clearly bear signs such as "political advertisement", identification data of the person who paid for it and the date of the bank payment order;

17. regret the decision of the Central Electoral Commission to reject the registration of the Initiative Group for conducting a republican legislative referendum on repealing Law No 154 of 20 July 2017, which changed the electoral system into the mixed system, since it reduced the rights of Moldovan citizens to organise and participate freely in the democratic process;
18. note with concern that members of local public administration are increasingly being harassed and forced to change political affiliation under duress;
19. welcome the government's approval of the 2018-2023 National Strategy for Preventing and Combating Violence against Women and Family Violence; at the same time, call for more robust financing of the strategy and for the legislative framework governing this field to be revised and adjusted to the provisions of the Istanbul Convention, so that victims of domestic violence are protected effectively from all forms of violence and the prevention and elimination of this phenomenon can be ensured;
20. welcome the adoption of the Action Plan for the implementation of the 2017-2027 Strategy for Strengthening Interethnic Relations in the Republic of Moldova and call on the Moldovan authorities to ensure its timely and full implementation;
21. express concern about the lack of independence and accountability of prosecutors and about the cases of torture and ill-treatment; note the inability and lack of protocols in relation to dealing with people with mental health issues or mental disabilities in police custody; draw attention to the specific case of Mr Andrei Braguta⁹, in which the torture-reporting mechanism established by the Joint Order of 2013 failed to serve its purpose, and strongly urge the Moldovan authorities to ensure that such cases will never take place again;
22. note with concern that the mandate of two members of the Antidiscrimination Council expires at the beginning of March 2018 and that the Moldovan authorities have not yet proceeded with the selection process for new members; call on the parliament to immediately set up a merit-based and transparent process for the selection of members and to amend the legislation empowering the Council with investigation and sanctioning powers, introducing clear definitions of *equal pay for equal work*, and call for adequate funding of the Council;
23. welcome the efforts of the working group to improve Moldovan media legislation and expect specific results; nevertheless, express concern about the lack of public policies to encourage the

economic development of the independent media, the concentration of media ownership, the massive political influence of media trusts on editorial policies and indications of cartel agreements that distort the commercial advertising market; call for measures to be taken to redress the lack of media pluralism and to exclude biased information and the abusive use of media outlets to discredit political opponents;

24. welcome the fact that the Moldovan authorities drafted a new Civil Society Development Strategy on a participatory basis and that the Ministry of Justice relaunched the consultation process on the draft law on nonprofit organisations; call for adoption of these important documents in due time and expect them to contribute to further strengthening Moldovan civil society;
25. acknowledge the significant trade effect of the DCFTA regime on Moldova's exports and its trade balance with the EU; express concern that Moldova's exports to the EU remain poorly diversified;
26. point out the perpetuation of significant flaws undermining the country's competitiveness, among which are the poorly developed quality infrastructure, low institutional capacities in standardisation and metrology, deficient business climate – especially for small- and medium sized enterprises – and high level of corruption, which, according to entrepreneurs, is the biggest impediment to doing business in Moldova;
27. welcome the recent reforms in the banking sector, in particular the implementation of the new banking law, transposition of the Bank Recovery and Resolution Directive (BRRD) and adoption of the Strategy for Basel 3 implementation; still consider that a lot remains to be done in order to enforce this legislation, increase confidence in the banking sector and make banks play a more active role in the economic development of the country, namely the implementation of fit and proper criteria for shareholders and managers, transfer of "problem" shares from the largest banks to fit and proper shareholders, cleaning up banks' balance sheets, improving their risk management and increasing the ability of the central bank to anticipate potential shocks and spot risks as early as possible;
28. recommend that similar reforms also be conducted in the non-banking financial sector, which is plagued by even more acute issues and is a source of financial instability and risks for the entire country;
29. consider that the financial stability framework needs significant consolidation by enhancing the institutional framework for cooperation among the relevant authorities in spotting and managing macro-financial risks;
30. welcome the adoption of the new Anti-Money Laundering/Counter Terrorist Financing Law, based on EU Directive 2015/849; nevertheless, express concerns that the transposition of this EU Directive was selective and partial in that:
 - the definition of "money laundering" does not comply with the EU norms, which creates significant corruption risks,

- the law does not provide any clear indications about defining risk-based criteria for the identification of illegal practices, which gives excessive discretion to the national AML authority in relation to the reporting entities,
 - the procedure for selecting the management of the AML authority is not transparent (the law does not provide for a public contest),
 - the law lacks any provisions regarding the obligations of the AML authority, which increases the risks of corruption and misconduct,
 - and the law does not cover other institutions that could be directly involved with money laundering, such as the judges who played a crucial role in Moldova's recent "Laundromat" case;
31. express concerns about the slow pace of reforms in the energy sector and consider it necessary in this connection to ensure full independence from political influences and to strengthen the decision-making autonomy and transparency of the energy regulator, in particular in gas and electricity tariff setting and adjustment in line with the recommendations of the Energy Community;
 32. think unbundling procedures need to be initiated in the gas sector by establishing the best way of doing this through public consultations and the involvement of civil society, in order to open up the market and stop the current monopolisation, following the principles enshrined in the national legislation transposing the EU energy acquis;
 33. call on the government to accelerate the construction of the Ungheni-Chisinau gas interconnection project by finalising the selection of construction company and establishing the source of investments and solving the issue of land acquisition, which is necessary to facilitate the timely construction of the pipeline;
 34. encourage the government of the Republic of Moldova, on the economic and business development front, to: (i) continue its efforts to simplify procedures for registering businesses, paying taxes and presenting online reports and solving disputes out of court and to redouble its efforts to attract Foreign Direct Investment; (ii) pay more attention to the implementation of Titles IV and V of the Association Agreement, as one of the most effective ways of advancing the business climate; (iii) increase its efforts to develop the financial system through the liberalisation of the legal framework for cross-border financial services; (iv) establish and designate a single public authority to be responsible for collection of all taxes and fiscal duties, and their distribution to the appropriate budgets; (v) continue its efforts to reduce excessive regulation and bureaucratisation of economic activities carried out by businesses;
 35. call upon the authorities to prevent the differential treatment of enterprises / institutions depending on capital, statute or other criteria, specifically in the areas still constituting an overarching state competency, such as healthcare, since substantial public funds are allocated to public providers, and to prevent unfair competition practices;
 36. call for substantial efforts to be invested in implementing a long-overdue health sector reform, including, but not limited to, hospital reform, thus improving health governance and financing through the application of a national standardised efficiency and quality approach;

37. urge the Moldovan authorities to promote ICT tools in healthcare, including the adoption of a strategy on E-health which would address the regulation of telemedicine services, integrated information systems for all the healthcare service providers and the Electronic Patient Record (EPR) system;
38. consider the implementation of a visa-free regime as a tool for enhancing people-to-people contacts, provided that safe mobility is guaranteed; note that the most frequent users of visa-free travel come from the 18-35 age group;

With regard to the transboundary water management of Dniester River, the CSP members:

39. in the light of the Agreement on the functioning of Dniester hydropower complex (hereinafter "Agreement"), which is currently under negotiation between Moldova and Ukraine, and considering a report on the content and implications of the draft of this Agreement drawn up by a Moldovan CSO¹⁰, underline the need to closely monitor its potentially negative consequences;
40. acknowledge the importance of the Dniester River for maintaining security in the region and for the sustainable development of the Republic of Moldova and Ukraine, as water of the Dniester River is used for drinking purposes for up to four million people from Moldova and the Ukrainian city of Odessa.
41. in the view of planned extensions of Dniester hydropower by 2026, draw attention to the position paper issued on 27 November 2017 and signed by both Moldovan officials and civil society representatives in which the disregarding of environmental provisions in the EU-Moldova and EU-Ukraine Association Agreements were noted; urge the EU and the international donors to closely monitor the Agreement's negotiation process, which has so far been untransparent and not in line with EU environmental legislation, and ask for an impact study on environmental and social consequences of the project;
42. fear that the situation may lead to depopulation of massive areas due to lack of drinking water, soil degradation, droughts and floods and other potential risks linked to much lower water discharge of Dniester River;
43. considering that Dniester River is an important element for maintaining security in the region, warn against possible deterioration of Moldova-Ukrainian relations as a consequence;
44. call on the authorities of the Republic of Moldova to refrain from signing the Agreement on the operation of the Dniester hydroelectric complex until assessments on the environmental, social and economic impacts of existing and planned hydro power infrastructure on the Upper Dniester are conducted;

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Ion Efros (2018): "Why the Ukrainian hydropower infrastructure on Dniester will destroy Moldova and how to prevent such a disaster?", Institute for Public Policy, http://ipp.md/wp-content/uploads/2017/12/Analytical-report_Impact-of-Hydro-infrastructure-Dniester_EN.pdf.

45. call on the Republic of Moldova authorities to hold consultations on the Agreement on the functioning of Dniester hydropower complex with civil society organisations, the Energy Community Secretariat, the European Commission and with donors that support Moldova's energy and water sector and taking into consideration the importance of the provisions of the Agreement for the country's water security; also call on the authorities to publish the Agreement and to conduct a large public consultation on it;
46. advise the Republic of Moldova authorities to avoid the "package approach" of mixing together different issues in the Moldova–Ukraine bilateral agenda which have nothing to do with the Dniester hydroelectric complex;
47. strongly urge the Moldovan authorities and the Ukrainian government to include the following minimum mandatory provisions in the Agreement of the functioning of Dniester hydropower complex in order to keep the Dniester River alive:
 - compliance with the EU Environmental Directives included in the Association Agreements signed between the European Union and the Republic of Moldova, as well as between the European Union and Ukraine, and with the provisions of the Energy Community environmental Directives signed by the Republic of Moldova and Ukraine that are relevant to these negotiations;
 - inclusion in the Agreement of minimum ecological and spring debits conducted on Dniester River in different periods of the year based on the hydraulicity in the River and other guaranteed water flow factors (such as gradient of increasing/decreasing of the water flow and establishing of minimum parameters for the spring ecological flow resulting from the accumulation of water in the main dam);
 - Ukraine should commit itself to compensating for the ecosystem services lost as a result of the existing hydropower infrastructure from its segment of the Dniester and that affected the Middle and Lower Dniester segments (according to the EU and UN "polluter-pays principle");
 - Inclusion of a mechanism to coordinate the operations of the units of Dniester hydropower complex with the Moldavian counterpart (Apele Moldovei) in regard to the guaranteed debits on Dniester;
 - carrying out environmental, social and economic impact studies on the existing Dniester hydropower complex facilities (in particular the Pumped Storage Hydropower Station and Hydropower Station II from Nahoreany/ Naslavcha) and a Strategic Environmental Impact assessment for the planned facilities (the cascade of six new hydropower plants on the Upper Dniester). These studies should be conducted by an international company/group of consultants with experience and reputation in this field and with no business interests in Ukraine or Moldova. Negotiations should be halted for the duration of the studies, the results of which should serve as a basis for the resumption of negotiations;

- the sudden changes of debit/volume of water at the hydropower plants with pumping storage that occur a few times a day should be prohibited or strictly regulated.

With regard to the social impact of the AA / DCFTA Implementation, the CSP members:

48. note that paying more attention in governance to the social aspects of the Association Agreement, in particular labour incentives and wage levels, minimum wages, employment, occupational safety and health, labour legislation and social dialogue, contributes to the creation of a greater number of high-quality jobs, poverty reduction, sustainable development and improved quality of life;
49. call for a speedy drafting of a law on a unitary pay system based on individual professional performance, to be adopted by the government and parliament by summer 2018 and consider it necessary to increase salaries for public sector employees and that the minimum wage is set at the level of the guaranteed minimum wage in the real sector of the economy, in order to keep young people on the labour market and to reduce labour migration;
50. welcome the consultation process involving economic and social stakeholders when drafting the Employment Promotion Law and call for its speedy adoption and full implementation;
51. recommend that the mechanism to establish the minimum guaranteed average salary be improved by negotiating it among social partners, based on the norms provided in the revised European Social Charter;
52. consider that the Labour Market Observatory should be set up within the Ministry of Health, Labour and Social Protection instead of within the National Employment Agency and that it should help to respond, in a timely manner, to a constantly changing labour market;
53. note that in order to ensure the sustainability of the pension system reform, it is crucial to implement effective measures to combat the informal economy and undeclared work, and to further involve social partners through appropriate social dialogue mechanisms;
54. point out that excessive flexibility and liberalisation of the Labour Code may come to the detriment of employees' rights, guarantees and legal interests and warn that it is considered inappropriate, under the EU-Moldova Association Agreement, to encourage trade or investment by reducing the levels of protection provided by national environmental or labour law;
55. call for a timely application of all actions foreseen in the Action Plan on the implementation of the Strategy for ensuring equality between women and men for the years 2017-2021 and for an urgent transposition of the Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation;
56. express their concern about the level of compliance with the legislation on occupational safety and health at work and emphasise that a number of workplace accidents need to be investigated by qualified and competent authorities in order to objectively evaluate the causes and circumstances of all work-related accidents; call for the institutional capacity of the State Inspectorate of Labour to be strengthened;

57. note that the Republic of Moldova has been involving social partners in policy making and that the negotiations traditionally take place within the National Commission for Consultation and Collective Negotiation; acknowledge the fact that the Commission supports the participation of civil society organisations in the promotion of national policies to maintain cohesion, peace and social stability; consider, however, that the Commission requires further training and organisational reform in line with the Central Public Administration Reform;
58. reaffirm that these proposals aim at achieving a high level of labour standards, which are essential to strengthen social cohesion and, in consequence, improve the business environment and encourage trade and foreign investment, in line with EU values and the acquis.
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